

1946, ch. 142, 60 Stat. 98, related to instructions for marking ballots.

Section 327, act Sept. 16, 1942, ch. 561, title II, §207, as added Apr. 1, 1944, ch. 150, 58 Stat. 139; amended Apr. 19, 1946, ch. 142, 60 Stat. 99, related to extension of State's time limits.

Section 328, act Sept. 16, 1942, ch. 561, title II, §208, as added Apr. 19, 1946, ch. 142, 60 Stat. 99, provided for notification of forthcoming elections by secretaries of states.

Section 329, act Sept. 16, 1942, ch. 561, title II, §209, as added Apr. 19, 1946, ch. 142, 60 Stat. 99; amended Sept. 29, 1950, ch. 1111, 64 Stat. 1082, provided for cooperation with States, printing and transmitting of post cards, and content of post cards.

Section 330, act Sept. 16, 1942, ch. 561, title II, §210, as added Apr. 19, 1946, ch. 142, 60 Stat. 101; amended July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501, related to transmission of post cards.

Section 331, act Sept. 16, 1942, ch. 561, title II, §211, as added Apr. 19, 1946, ch. 142, 60 Stat. 101; amended July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501, related to distribution of information.

A prior section 331, act Sept. 16, 1942, ch. 561, title III, §301, as added Apr. 1, 1944, ch. 150, 58 Stat. 140, related to establishment of United States War Ballot Commission and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

#### ADDITIONAL REPEAL

Sections 321 to 331 were also repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641.

#### §§ 332 to 340. Repealed. Apr. 19, 1946, ch. 142, 60 Stat. 96

Section 332, act Sept. 16, 1942, ch. 561, title III, §302, as added Apr. 1, 1944, ch. 150, 58 Stat. 140, related to persons subject to this subchapter.

Section 333, act Sept. 16, 1942, ch. 561, title III, §303, as added Apr. 1, 1944, ch. 150, 58 Stat. 141, related to Federal war ballots.

Section 334, act Sept. 16, 1942, ch. 561, title III, §304, as added Apr. 1, 1944, ch. 150, 58 Stat. 143, related to administration of oaths.

Section 335, act Sept. 16, 1942, ch. 561, title III, §305, as added Apr. 1, 1944, ch. 150, 58 Stat. 143, related to administration of this subchapter.

Section 336, act Sept. 16, 1942, ch. 561, title III, §306, as added Apr. 1, 1944, ch. 150, 58 Stat. 144, related to lists of candidates.

Section 337, act Sept. 16, 1942, ch. 561, title III, §307, as added Apr. 1, 1944, ch. 150, 58 Stat. 144, related to distribution and collection of ballots.

Section 338, act Sept. 16, 1942, ch. 561, title III, §308, as added Apr. 1, 1944, ch. 150, 58 Stat. 145, related to merchant marine ballots.

Section 339, act Sept. 16, 1942, ch. 561, title III, §309, as added Apr. 1, 1944, ch. 150, 58 Stat. 145, related to transmission of ballots.

Section 340, act Sept. 16, 1942, ch. 561, title III, §310, as added Apr. 1, 1944, ch. 150, 58 Stat. 145, related to reports on balloting.

#### § 341. Repealed. Aug. 9, 1955, ch. 656, title III, § 307, 69 Stat. 589

Section, act Sept. 16, 1942, ch. 561, title III, §301, as added Apr. 19, 1946, ch. 142, 60 Stat. 101, provided for prevention of fraud, coercion, and undue influence; free discussion, and acts done in good faith.

A prior section 341, act Sept. 16, 1942, ch. 561, title III, §311, as added Apr. 1, 1944, ch. 150, 58 Stat. 146, related to validity of ballots and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

#### ADDITIONAL REPEAL

Section was also repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641.

#### § 342. Repealed. May 24, 1949, ch. 139, § 142, 63 Stat. 109

Section, act Sept. 16, 1942, ch. 561, title III, §302, as added Apr. 19, 1946, ch. 142, 60 Stat. 102, related to prohibition against taking of polls. See section 596 of Title 18, Crimes and Criminal Procedure.

A prior section 342, act Sept. 16, 1942, ch. 561, title III, §312, as added Apr. 1, 1944, ch. 150, 58 Stat. 146, which provided for safeguards and secrecy of ballots and prevention of fraud and coercion as to voting, was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 102.

#### §§ 343 to 347. Repealed. Apr. 19, 1946, ch. 142, 60 Stat. 96

Section 343, act Sept. 16, 1942, ch. 561, title III, §313, as added Apr. 1, 1944, ch. 150, 58 Stat. 146, related to penalties under sections 341 to 347 of this title.

Section 344, act Sept. 16, 1942, ch. 561, title III, §314, as added Apr. 1, 1944, ch. 150, 58 Stat. 146, related to prohibition on taking polls. See section 596 of Title 18, Crimes and Criminal Procedure.

Section 344 was also repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862.

Section 345, act Sept. 16, 1942, ch. 561, title III, §315, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, related to certain State officials.

Section 346, act Sept. 16, 1942, ch. 561, title III, §316, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, related to agencies acting for the Secretary of State.

Section 347, act Sept. 16, 1942, ch. 561, title III, §317, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, related to construction of chapter.

#### §§ 351 to 355. Repealed. Aug. 9, 1955, ch. 656, title III, § 307, 69 Stat. 589

Section 351, act Sept. 16, 1942, ch. 561, title IV, §401, as added Apr. 19, 1946, ch. 142, 60 Stat. 102, defined terms for purposes of this chapter.

A prior section 351, act Sept. 16, 1942, ch. 561, title IV, §401, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, authorized appropriations for purposes of this chapter and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

Section 352, act Sept. 16, 1942, ch. 561, title IV, §402, as added Apr. 19, 1946, ch. 142, 60 Stat. 102; amended Sept. 29, 1950, ch. 1112, §2, 64 Stat. 1083, related to free postage.

A prior section 352, act Sept. 16, 1942, ch. 561, title IV, §402, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, related to free postage and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

Section 353, act Sept. 16, 1942, ch. 561, title IV, §403, as added Apr. 19, 1946, ch. 142, 60 Stat. 103, related to administration of this chapter.

A prior section 353, act Sept. 16, 1942, ch. 561, title IV, §403, as added Apr. 1, 1944, ch. 150, 58 Stat. 148, defined terms for purposes of this chapter and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

Section 354, act Sept. 16, 1942, ch. 561, title IV, §404, as added Apr. 19, 1946, ch. 142, 60 Stat. 103, related to separability of provisions.

A prior section 354, act Sept. 16, 1942, ch. 561, title IV, §404, as added Apr. 1, 1944, ch. 150, 58 Stat. 148, related to separability of provisions and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

Section 355, act Sept. 16, 1942, ch. 561, title IV, §405, as added Apr. 19, 1946, ch. 142, 60 Stat. 103, related to construction of this chapter.

#### ADDITIONAL REPEAL

Sections 351 to 355 were also repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641.

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In enacting this legislation, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security; to provide a Department of Defense, including the three military Departments of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force under the direction, authority, and control of the Secretary of Defense; to provide that each military department shall be separately organized under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense; to provide for their unified direction under civilian control of the Secretary of Defense but not to merge these departments or services; to provide for the establishment of unified or specified combatant commands, and a clear and direct line of command to such commands; to eliminate unnecessary duplication in the Department of Defense, and particularly in the field of research and engineering by vesting its overall direction and control in the Secretary of Defense; to provide more effective, efficient, and economical administration in the Department of Defense; to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces but not to establish a single Chief of Staff over the armed forces nor an overall armed forces general staff.

(July 26, 1947, ch. 343, § 2, 61 Stat. 496; Aug. 10, 1949, ch. 412, § 2, 63 Stat. 579; Aug. 6, 1958, Pub. L. 85-599, § 2, 72 Stat. 514.)

## REFERENCES IN TEXT

This legislation, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the

National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

## AMENDMENTS

1958—Pub. L. 85-599 amended section generally, and, among other changes, provided that each military department shall be separately organized, instead of separately administered, under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense, and inserted provisions relating to establishment of unified or specified combatant commands and for elimination of unnecessary duplication.

1949—Act Aug. 10, 1949, provided that the military departments shall be separately administered but be under the direction of the Secretary of Defense, and that there shall not be a single Chief of Staff over the armed forces nor an armed forces general staff.

## EFFECTIVE DATE

Section 310 of act July 26, 1947, provided:

“(a) The first sentence of section 202(a) [section 171a of former Title 5, Executive Departments and Government Officers and Employees] and sections 1, 2, 307, 308, 309, and 310 [section 171 note of former Title 5, section 361 of this title, and sections 171m and 171n of former Title 5] shall take effect immediately upon the enactment of this Act [July 26, 1947].

“(b) Except as provided in subsection (a), the provisions of this Act [sections 171 to 171i, 181-1, 181-2, 411a, 411b, 626 to 626d of former Title 5, section 24 of Title 3, The President, and sections 401 to 405 of this title] shall take effect on whichever of the following days is the earlier: The day after the day upon which the Secretary of Defense first appointed takes office, or the sixtieth day after the date of the enactment of this Act [July 26, 1947].”

## SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-359, title VIII, § 801, Oct. 14, 1994, 108 Stat. 3434, provided that: “This title [enacting sections 402a, 435 to 438, and 1821 to 1829 of this title, section 2170b of the Appendix to this title, section 1599 of Title 10, Armed Forces, and section 1924 of Title 18, Crimes and Criminal Procedure, amending section 783 of this title, section 2170 of the Appendix to this title, section 8312 of Title 5, Government Organization and Employees, section 1604 of Title 10, and sections 793, 794, 798, 3071, and 3077 of Title 18, enacting provisions set out as notes under sections 435 and 1821 of this title, and amending provisions set out as notes under sections 402 and 1801 of this title] may be cited as the ‘Counterintelligence and Security Enhancements Act of 1994’.”

## SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-496, title VII, § 701, Oct. 24, 1992, 106 Stat. 3188, provided that: “This title [enacting sections 401a and 403-3 to 403-6 of this title, amending sections 402, 403, 404, and 404a of this title, and repealing section 403-1 of this title] may be cited as the ‘Intelligence Organization Act of 1992’.”

## SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-477, § 1, Oct. 15, 1984, 98 Stat. 2209, provided: “That this Act [enacting sections 431 and 432 of this title, amending section 552a of Title 5, Government Organization and Employees, and enacting provisions set out as notes under sections 431 and 432 of this title] may be cited as the ‘Central Intelligence Agency Information Act’.”

## SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97-200, § 1, June 23, 1982, 96 Stat. 122, provided: “That this Act [enacting subchapter IV of this chapter] may be cited as the ‘Intelligence Identities Protection Act of 1982’.”

## SHORT TITLE OF 1949 AMENDMENT

Section 1 of act Aug. 10, 1949, provided that: “This Act [enacting sections 408 and 412 of this title and sec-

tions 171-1, 171t, 172, 172a to 172d, and 172f to 172j of former Title 5, Executive Departments and Government Officers and Employees, amending this section, sections 151, 402, 403d, 405, 410, 459, 481, and 494 of this title, sections 171, 171a, 171b to 171d, 171e to 171j, 171n, 171r, 172e, 411b, and 626c of former Title 5, section 1748b of Title 12, Banks and Banking, section 1517 of Title 15, Commerce and Trade, sections 474, 481 to 484, and 487 of Title 40, Public Buildings, Property, and Works, section 364a of Title 43, Public Lands, sections 1156 and 1157 of former Title 49, Transportation, and section 1193 of the Appendix to this title, and enacting provisions set out as notes under this section and sections 171 and 171c of former Title 5] may be cited as the 'National Security Act Amendments of 1949'."

#### SHORT TITLE

Section 1 of act July 26, 1947, provided: "That this Act [enacting this section, sections 401a to 403, 404, 405, and 408 to 412 of this title, and sections 171, 171-1, 171-2, 171a, 171b to 171d, 171e to 171j, 171k to 171m, 171n, 172, 172a to 172d, 172f to 172j, 181-1, 181-2, 411a, 411b, 626, 626a to 626c, and 626d of former Title 5, Executive Department and Government Officers and Employees, amending sections 1, 11, and 172e of former Title 5, section 1517 of Title 15, Commerce and Trade, and section 72 of former Title 31, Money and Finance, and enacting provisions set out as notes under this section and section 135 of Title 10, Armed Forces] may be cited as the 'National Security Act of 1947'."

Sections of National Security Act of 1947, which were classified to former Title 5, were repealed and restated in Title 10, Armed Forces, except as noted, as follows:

<i>Section of former Title 5</i>	<i>Section of Title 10</i>
171 .....	131, 133.
171a(a), (b) .....	133.
171a(c) .....	125, 136, 141, 3010, 3012, 5011, 5031, 8010, 8012.
171a(d) .....	133.
171a(e) .....	132.
171a(f) .....	133.
171a(g)-(i) .....	[Omitted].
171a(j) .....	124.
171c .....	134, 135, 136, 718, 2358.
171c-1, 171c-2 .....	[Repealed].
171d .....	1580.
171e .....	171.
171f .....	141, 142.
171g .....	143.
171h .....	2201.
171i .....	2351.
171j .....	173.
172 .....	136.
172a .....	3014, 5061, 8014.
172b .....	2203.
172c .....	2204.
172d .....	2208.
172e .....	2209.
172f .....	126.
172g .....	2205.
172h .....	2206.
172i .....	2701.
181-1 .....	101, 3011, 3012, 3062, T. 50 § 409.
181-2 .....	3012.
411a(a) .....	101; T. 50 § 409.
411a(b) .....	5012.
411a(c) .....	5013, 5402.
626(a) .....	8012.
626(b) .....	[Repealed].
626(c) .....	101; T. 50 § 409.
626(d) .....	8013.
626(e) .....	8012.
626(f) .....	8033.
626(g) .....	8011.
626a .....	8012.
626b .....	8013.

#### *Section of former Title 5*

#### *Section of Title 10*

626c ..... 743, 8062.

#### SAVINGS PROVISION

Section 12(g) of act Aug. 10, 1949, provided: "All laws, orders, regulations, and other actions relating to the National Military Establishment, the Departments of the Army, the Navy, or the Air Force, or to any officer or activity of such establishment or such departments, shall, except to the extent inconsistent with the provisions of this Act [see Short Title of 1949 Amendment note above], have the same effect as if this Act had not been enacted; but, after the effective date of this Act [Aug. 10, 1949], any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or establishment, shall be deemed to have vested such function in or relate to the officer or department, executive or military, succeeding the officer, department, or establishment in which such function was vested. For purposes of this subsection the Department of Defense shall be deemed the department succeeding the National Military Establishment, and the military departments of Army, Navy, and Air Force shall be deemed the departments succeeding the Executive Departments of Army, Navy, and Air Force."

#### SEPARABILITY

Section 309 of act July 26, 1947, provided: "If any provision of this Act [see Short Title note above] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby."

[Section 310(a) of act July 26, 1947, set out as an Effective Date note above, provided that section 309 of act July 26, 1947, is effective July 26, 1947.]

#### COMMISSION ON ROLES AND CAPABILITIES OF UNITED STATES INTELLIGENCE COMMUNITY

Pub. L. 103-359, title IX, Oct. 14, 1994, 108 Stat. 3456, provided that:

#### "SEC. 901. ESTABLISHMENT.

"There is established a commission to be known as the Commission on the Roles and Capabilities of the United States Intelligence Community (hereafter in this title referred to as the 'Commission').

#### "SEC. 902. COMPOSITION AND QUALIFICATIONS.

"(a) MEMBERSHIP.—(1) The Commission shall be composed of 17 members, as follows:

"(A) Nine members shall be appointed by the President from private life, no more than four of whom shall have previously held senior leadership positions in the intelligence community and no more than five of whom shall be members of the same political party.

"(B) Two members shall be appointed by the majority leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

"(C) Two members shall be appointed by the minority leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

"(D) Two members shall be appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

"(E) Two members shall be appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

"(2) The members of the Commission appointed from private life under paragraph (1) shall be persons of demonstrated ability and accomplishment in government, business, law, academe, journalism, or other profession, who have a substantial background in national security matters.

“(b) CHAIRMAN AND VICE CHAIRMAN.—The President shall designate two of the members appointed from private life to serve as Chairman and Vice Chairman, respectively, of the Commission.

“(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner as the original appointment.

“(d) DEADLINE FOR APPOINTMENTS.—The appointments required by subsection (a) shall be made within 45 days after the date of enactment of this Act [Oct. 14, 1994].

“(e) MEETINGS.—(1) The Commission shall meet at the call of the Chairman.

“(2) The Commission shall hold its first meeting not later than four months after the date of enactment of this Act.

“(f) QUORUM.—Nine members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings, take testimony, or receive evidence.

“(g) SECURITY CLEARANCES.—Appropriate security clearances shall be required for members of the Commission who are private United States citizens. Such clearances shall be processed and completed on an expedited basis by appropriate elements of the executive branch of Government and shall, in any case, be completed within 90 days of the date such members are appointed.

“(h) APPLICATION OF CERTAIN PROVISIONS OF LAW.—In light of the extraordinary and sensitive nature of its deliberations, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), and the regulations prescribed by the Administrator of General Services pursuant to that Act, shall not apply to the Commission. Further, the provisions of section 552 of title 5, United States Code (commonly known as the ‘Freedom of Information Act’), shall not apply to the Commission; however, records of the Commission shall be subject to the Federal Records Act [probably means chapters 21 to 31 of Title 44, Public Printing and Documents] and, when transferred to the National Archives and Records Agency, shall no longer be exempt from the provisions of such section 552.

#### “SEC. 903. DUTIES OF THE COMMISSION.

“(a) IN GENERAL.—It shall be the duty of the Commission—

“(1) to review the efficacy and appropriateness of the activities of the United States intelligence community in the post-cold war global environment; and

“(2) to prepare and transmit the reports described in section 904.

“(b) IMPLEMENTATION.—In carrying out subsection (a), the Commission shall specifically consider the following:

“(1) What should be the roles and missions of the intelligence community in terms of providing support to the defense and foreign policy establishments and how should these relate to tactical intelligence activities.

“(2) Whether the roles and missions of the intelligence community should extend beyond the traditional areas of providing support to the defense and foreign policy establishments, and, if so, what areas should be considered legitimate for intelligence collection and analysis, and whether such areas should include, for example, economic issues, environmental issues, and health issues.

“(3) What functions, if any, should continue to be assigned to the organizations of the intelligence community, including the Central Intelligence Agency, and what capabilities should these organizations retain for the future.

“(4) Whether the existing organization and management framework of the organizations of the intelligence community, including the Central Intelligence Agency, provide the optimal structure for the accomplishment of their missions.

“(5) Whether existing principles and strategies governing the acquisition and maintenance of intelligence collection capabilities should be retained and what collection capabilities should the Government retain to meet future contingencies.

“(6) Whether intelligence analysis, as it is currently structured and executed, adds sufficient value to information otherwise available to the Government to justify its continuation, and, if so, at what level of resources.

“(7) Whether the existing decentralized system of intelligence analysis results in significant waste or duplication, and, if so, what can be done to correct these deficiencies.

“(8) Whether the existing arrangements for allocating available resources to accomplish the roles and missions assigned to intelligence agencies are adequate.

“(9) Whether the existing framework for coordinating among intelligence agencies with respect to intelligence collection and analysis and other activities, including training and operational activities, provides an optimal structure for such coordination.

“(10) Whether current personnel policies and practices of intelligence agencies provide an optimal work force to satisfy the needs of intelligence consumers.

“(11) Whether resources for intelligence activities should continue to be allocated as part of the defense budget or be treated by the President and Congress as a separate budgetary program.

“(12) Whether the existing levels of resources allocated for intelligence collection or intelligence analysis, or to provide a capability to conduct covert actions, are seriously at variance with United States needs.

“(13) Whether there are areas of redundant or overlapping activity or areas where there is evidence of serious waste, duplication, or mismanagement.

“(14) To what extent, if any, should the budget for United States intelligence activities be publicly disclosed.

“(15) To what extent, if any, should the United States intelligence community collect information bearing upon private commercial activity and the manner in which such information should be controlled and disseminated.

“(16) Whether counterintelligence policies and practices are adequate to ensure that employees of intelligence agencies are sensitive to security problems, and whether intelligence agencies themselves have adequate authority and capability to address perceived security problems.

“(17) The manner in which the size, missions, capabilities, and resources of the United States intelligence community compare to those of other countries.

“(18) Whether existing collaborative arrangements between the United States and other countries in the area of intelligence cooperation should be maintained and whether such arrangements should be expanded to provide for increased burdensharing.

“(19) Whether existing arrangements for sharing intelligence with multinational organizations in support of mutually shared objectives are adequate.

#### “SEC. 904. REPORTS.

“(a) INITIAL REPORT.—Not later than two months after the first meeting of the Commission, the Commission shall transmit to the congressional intelligence committees a report setting forth its plan for the work of the Commission.

“(b) INTERIM REPORTS.—Prior to the submission of the report required by subsection (c), the Commission may issue such interim reports as it finds necessary and desirable.

“(c) FINAL REPORT.—No later than March 1, 1996, the Commission shall submit to the President and to the congressional intelligence committees a report setting forth the activities, findings, and recommendations of

the Commission, including any recommendations for the enactment of legislation that the Commission considers advisable. To the extent feasible, such report shall be unclassified and made available to the public. Such report shall be supplemented as necessary by a classified report or annex, which shall be provided separately to the President and the congressional intelligence committees.

“SEC. 905. POWERS.

“(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this title, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

“(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any intelligence agency or from any other Federal department or agency any information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section. Upon request of the Chairman of the Commission, the head of any such department or agency shall furnish such information expeditiously to the Commission.

“(c) POSTAL, PRINTING AND BINDING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

“(d) SUBCOMMITTEES.—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

“(e) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

“SEC. 906. PERSONNEL MATTERS.

“(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is a private United States citizen shall be paid, if requested, at a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. All members of the Commission who are Members of Congress shall serve without compensation in addition to that received for their services as Members of Congress.

“(b) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

“(c) STAFF.—

“(1) IN GENERAL.—The Chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The staff director of the Commission shall be appointed from private life, and such appointment shall be subject to the approval of the Commission as a whole. No member of the professional staff may be a current officer or employee of an intelligence agency, except that up to three current employees of intelligence agencies who are on rotational assignment to the Executive Office of the President may serve on the Commission staff, subject to the approval of the Commission as a whole.

“(2) COMPENSATION.—The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS-15 of the General Schedule.

“(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its administrative and clerical functions.

“(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

“(f) ADMINISTRATIVE AND SUPPORT SERVICES.—The Director of Central Intelligence shall furnish the Commission, on a non-reimbursable basis, any administrative and support services requested by the Commission consistent with this title.

“SEC. 907. PAYMENT OF COMMISSION EXPENSES.

“The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

“SEC. 908. TERMINATION OF THE COMMISSION.

“The Commission shall terminate one month after the date of the submission of the report required by section 904(c).

“SEC. 909. DEFINITIONS.

“For purposes of this title—

“(1) the term ‘intelligence agency’ means any agency, office, or element of the intelligence community;

“(2) the term ‘intelligence community’ shall have the same meaning as set forth in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

“(3) the term ‘congressional intelligence committees’ refers to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.”

NATIONAL COMMISSION ON DEFENSE AND NATIONAL SECURITY

Pub. L. 101-511, title VIII, §8104, Nov. 5, 1990, 104 Stat. 1898, as amended by Pub. L. 102-172, title VIII, §8078, Nov. 26, 1991, 105 Stat. 1189, provided that:

“SECTION 1. This section establishes the National Commission on Defense and National Security.

“SEC. 2. FINDINGS.

“The Congress makes the following findings:

“(1) Recent revolutionary world events require a fundamental reassessment of the defense and national security policies of the United States.

“(2) Emerging democracies around the world will require political, technical, and economic assistance, as well as military assistance, from the developed free nations in order to thrive and to become productive members of the world community.

“(3) Real and potential military threats to the United States and its allies will continue to exist for the foreseeable future from not just the Soviet Union but also from terrorism and from Third World nations.

“(4) Proliferation of both sophisticated conventional weapons and of nuclear weapons could produce

a world more dangerous than we have faced in the past.

“(5) Ethnic rivalries as well as economic inequalities may produce instabilities that could spark serious conflict.

“(6) In order to formulate coherent national policies to meet these challenges of a new world environment, it is essential for the United States to achieve a bipartisan consensus such as that which emerged following World War II.

“(7) Such a consensus can be fostered by the development of policy recommendations from a highly respected group of individuals who do not bear a partisan label and who possess critical expertise and experience.

#### “SEC. 3. ESTABLISHMENT.

“There is established a commission to be known as [the] National Commission on Defense and National Security (hereinafter in this Act referred to as the ‘Commission’). The Commission is established until 30 days following submission of the final report required by section 6 of this section.

#### “SEC. 4. DUTIES OF COMMISSION.

“(a) IN GENERAL.—The Commission shall analyze and make recommendations to the President and Congress concerning the national security and national defense policies of the United States.

“(b) MATTERS TO BE ANALYZED.—Matters to be analyzed by the Commission shall include the following:

“(1) The world-wide interests, goals, and objectives of the United States that are vital to the national security of the United States.

“(2) The political, economic, and military developments around the world and the implications of those developments for United States national security interests, including—

“(A) the developments in Eastern Europe and the Soviet Union;

“(B) the question of German unification;

“(C) the future of NATO and European economic integration;

“(D) the future of the Pacific Basin; and

“(E) potential instability resulting from regional conflicts or economic problems in the developing world.

“(3) The foreign policy, world-wide commitments, and national defense capabilities of the United States necessary to deter aggression and implement the national security strategy of the United States, including the contribution that can be made by bilateral and multilateral political and economic associations in promoting interests that the United States shares with other members of the world community.

“(4) The proposed short-term uses of the political, economic, military, and other elements of national power for the United States to protect or promote the interests and to achieve the goals and objectives referred to in paragraph (1).

“(5) Long-term options that should be considered further for a number of potential courses of world events over the remainder of the century and into the next century.

#### “SEC. 5. MEMBERSHIP.

“(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 10 members, as follows:

“(1) Three appointed by the President.

“(2) Three appointed by the Speaker of the House of Representatives.

“(3) One appointed by the minority leader of the House of Representatives.

“(4) Two appointed by the majority leader of the Senate.

“(5) One appointed by the minority leader of the Senate.

“(b) QUALIFICATIONS.—Persons appointed to the Commission shall be persons who are not officers or employees of the Federal Government (including Members of Congress) and who are specially qualified to serve on

the Commission by virtue of their education, training, or experience.

“(c) TERMS.—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

“(d) BASIC PAY.—Members of the Commission shall serve without pay.

“(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

“(f) CHAIRMAN AND VICE CHAIRMAN.—The Chairman of the Commission shall be designated by the President from among the members appointed by the President. The Vice Chairman of the Commission shall be designated by the Speaker of the House of Representatives from among the members appointed by the Speaker.

“(g) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

“(h) DEADLINE FOR APPOINTMENTS.—Members of the Commission shall be appointed not later than the end of the 30-day period beginning on the date of the enactment of this Act [Nov. 5, 1990].

#### “SEC. 6. REPORTS.

“(a) INITIAL REPORT.—The Commission shall transmit to the President and to Congress an initial report not later than six months after the date on which the Commission is first constituted with a quorum.

“(b) FINAL REPORT.—The Commission shall transmit to the President and to Congress a final report one year following submission of the initial report under subsection (a).

“(c) CONTENTS OF REPORTS.—The report under subsection (b) shall contain a detailed statement of the findings and conclusions of the Commission concerning the matters to be studied by the Commission under section 4, together with its recommendations for such legislation and administrative actions as it considers appropriate. Such report shall include a comprehensive description and discussion of the matters set forth in section 4.

“(d) REPORTS TO BE UNCLASSIFIED.—Each such report shall be submitted in unclassified form.

“(e) ADDITIONAL AND MINORITY VIEWS.—Each report may include such additional and minority views as individual members of the Commission may request be included.

#### “SEC. 7. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

“(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-18 of the General Schedule.

“(b) STAFF.—The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

“(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

“(d) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

“(e) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.



“SEC. 8. POWERS OF COMMISSION

“(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

“(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

“(c) OBTAINING OFFICIAL DATA.—The Chairman or a designee on behalf of the Chairman may request information necessary to enable the Commission to carry out this Act directly from any department or agency of the United States.

“(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

“(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

“(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

“SEC. 9. INITIAL FUNDING OF COMMISSION.

“If funds are not otherwise available for the necessary expenses of the Commission for fiscal year 1991, the Secretary of Defense shall make available to the Commission, from funds available to the Secretary for the fiscal year concerned, such funds as the Commission requires. When funds are specifically appropriated for the expenses of the Commission, the Commission shall reimburse the Secretary from such funds for any funds provided to it under the preceding sentence.”

[References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.]

INTELLIGENCE PRIORITIES AND REORGANIZATION

Pub. L. 101-510, div. A, title IX, § 907, Nov. 5, 1990, 104 Stat. 1622, provided that:

“(a) REVISION OF PRIORITIES AND CONSOLIDATION OF FUNCTIONS.—The Secretary of Defense, together with the Director of Central Intelligence, shall conduct a joint review of all intelligence and intelligence-related activities in the Tactical Intelligence and Related Activities (TIARA) programs and the National Foreign Intelligence Program (NFIP). The Secretary, together with the Director, shall take the following actions with respect to those activities:

“(1) In cases in which redundancy or fragmentation exist, consolidate functions, programs, organizations, and operations to improve the efficiency and effectiveness of the conduct of those intelligence activities or programs.

“(2) Revise intelligence collection and analysis priorities and resource allocations to reflect changes in the international security environment.

“(3) Strengthen joint intelligence functions, operations, and organizations.

“(4) Improve the quality and independence of intelligence support to the weapons acquisition process.

“(5) Improve the responsiveness and utility of national intelligence systems and organizations to the needs of the combatant commanders.

“(b) PERSONNEL REDUCTIONS.—(1) The number of personnel assigned or detailed to the National Foreign Intelligence Program and related Tactical Intelligence and Related Activities programs shall be reduced by not less than 5 percent of the number of such personnel described in paragraph (2) during each of fiscal years 1992 through 1996.

“(2) The number of personnel referred to in paragraph (1) is the number of personnel assigned or detailed to such programs on September 30, 1990.”

FOREIGN INTELLIGENCE ELECTRONIC SURVEILLANCE

For provisions relating to the exercise of certain authority respecting foreign intelligence electronic surveillance, see Ex. Ord. No. 12139, May 23, 1979, 44 F.R. 30311, set out under section 1802 of this title.

CHANGE OF TITLES OF SECRETARY OF DEFENSE, ET AL.; REAPPOINTMENT

Section 12(f) of act Aug. 10, 1949, provided in part that: “The titles of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Under Secretaries and the Assistant Secretaries of the Departments of the Army, Navy, and Air Force, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, shall not be changed by virtue of this Act [see Short Title of 1949 Amendment note set out above] and the reappointment of the officials holding such titles on the effective date of this Act [Aug. 10, 1949] shall not be required.”

REORGANIZATION PLAN NO. 8 OF 1949

Section 12(i) of act Aug. 10, 1949, provided that: “Reorganization Plan Numbered 8 of 1949, which was transmitted to the Congress by the President on July 18, 1949 [set out in Appendix to Title 5, Government Organization and Employees] pursuant to the provisions of the Reorganization Act of 1949, shall not take effect, notwithstanding the provisions of section 6 of such Reorganization Act of 1949.”

EX. ORD. NO. 10431. NATIONAL SECURITY MEDAL

Ex. Ord. No. 10431, Jan. 19, 1953, 18 F.R. 437, provided:

1. There is hereby established a medal to be known as the National Security Medal with accompanying ribbons and appurtenances. The medal and its appurtenances shall be of appropriate design, approved by the Executive Secretary of the National Security Council.

2. The National Security Medal may be awarded to any person, without regard to nationality, including members of the armed forces of the United States, for distinguished achievement or outstanding contribution on or after July 26, 1947, in the field of intelligence relating to the national security.

3. The decoration established by this order shall be awarded by the President of the United States or, under regulations approved by him, by such person or persons as he may designate.

4. No more than one National Security Medal shall be awarded to any one person, but for subsequent services justifying an award, a suitable device may be awarded to be worn with the Medal.

5. Members of the armed forces of the United States who are awarded the decoration established by this order are authorized to wear the medal and the ribbon symbolic of the award, as may be authorized by uniform regulations approved by the Secretary of Defense.

6. The decoration established by this order may be awarded posthumously.

REGULATIONS GOVERNING THE AWARD OF THE NATIONAL SECURITY MEDAL

Pursuant to Paragraph 2 of Executive Order 10431, the following regulations are hereby issued to govern the award of the National Security Medal:

1. The National Security Medal may be awarded to any person without regard to nationality, including a member of the Armed Forces of the United States, who, on or after 26 July 1947, has made an outstanding contribution to the National intelligence effort. This contribution may consist of either exceptionally meritorious service performed in a position of high responsibility or of an act of valor requiring personal courage of a high degree and complete disregard of personal safety.

2. The National Security Medal with accompanying ribbon and appurtenances, shall be of appropriate de-

sign to be approved by the Executive Secretary of the National Security Council.

3. The National Security Medal shall be awarded only by the President or his designee for that purpose.

4. Recommendations may be submitted to the Executive Secretary of the National Security Council by any individual having personal knowledge of the facts of the exceptionally meritorious conduct or act of valor of the candidate in the performance of outstanding services, either as an eyewitness or from the testimony of others who have personal knowledge or were eyewitnesses. Any recommendations shall be accompanied by complete documentation, including where necessary, certificates, affidavits or sworn transcripts of testimony. Each recommendation for an award shall show the exact status, at the time of the rendition of the service on which the recommendation is based, with respect to citizenship, employment, and all other material factors, of the person who is being recommended for the National Security Medal.

5. Each recommendation shall contain a draft of an appropriate citation to accompany the award of the National Security Medal.

#### EXECUTIVE ORDER No. 10865

For Ex. Ord. No. 10865, see note under section 435 of this title.

#### EXECUTIVE ORDER No. 11652

For Ex. Ord. No. 11652, see note under section 435 of this title.

#### EXECUTIVE ORDER No. 11905

Ex. Ord. No. 11905, Feb. 18, 1976, 41 F.R. 7703, as amended by Ex. Ord. No. 11985, May 13, 1977, 42 F.R. 25487; Ex. Ord. No. 11994, June 1, 1977, 42 F.R. 28869, which related to United States foreign intelligence activities, was superseded by Ex. Ord. No. 12036, Jan. 24, 1978, 43 F.R. 3674, formerly set out below.

#### EXECUTIVE ORDER No. 11932

For Ex. Ord. No. 11932, see note under section 435 of this title.

#### EXECUTIVE ORDER No. 12036

Ex. Ord. No. 12036, Jan. 24, 1978, 43 F.R. 3674, as amended by Ex. Ord. No. 12139, May 23, 1979, 44 F.R. 30311, which related to United States foreign intelligence activities, was revoked by Ex. Ord. No. 12333, Dec. 4, 1981, 46 F.R. 59941, set out below.

#### EXECUTIVE ORDER No. 12065

For Ex. Ord. No. 12065, see note under section 435 of this title.

#### EX. ORD. NO. 12333. UNITED STATES INTELLIGENCE ACTIVITIES

Ex. Ord. No. 12333, Dec. 4, 1981, 46 F.R. 59941, provided:

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Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended [see Short Title note above], and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

#### PART 1—GOALS, DIRECTION, DUTIES AND RESPONSIBILITIES WITH RESPECT TO THE NATIONAL INTELLIGENCE EFFORT

##### 1.1 GOALS

The United States intelligence effort shall provide the President and the National Security Council with the necessary information on which to base decisions concerning the conduct and development of foreign, defense and economic policy, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal.

(a) Maximum emphasis should be given to fostering analytical competition among appropriate elements of the Intelligence Community.

(b) All means, consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, shall be used to develop intelligence information for the President and the National Security Council. A balanced approach between technical collection efforts and other means should be maintained and encouraged.

(c) Special emphasis should be given to detecting and countering espionage and other threats and activities directed by foreign intelligence services against the United States Government, or United States corporations, establishments, or persons.

(d) To the greatest extent possible consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, all agencies and departments should seek to ensure full and free exchange of information in order to derive maximum benefit from the United States intelligence effort.

##### 1.2 THE NATIONAL SECURITY COUNCIL

(a) *Purpose.* The National Security Council (NSC) was established by the National Security Act of 1947 [see Short Title note above] to advise the President with respect to the integration of domestic, foreign and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for and direction to the conduct of all national foreign intelligence, counterintelligence, and special activities, and attendant policies and programs.

(b) *Committees.* The NSC shall establish such committees as may be necessary to carry out its functions and responsibilities under this Order. The NSC, or a committee established by it, shall consider and submit to the President a policy recommendation, including all dissents, on each special activity and shall review proposals for other sensitive intelligence operations.

### 1.3 NATIONAL FOREIGN INTELLIGENCE ADVISORY GROUPS

(a) *Establishment and Duties.* The Director of Central Intelligence shall establish such boards, councils, or groups as required for the purpose of obtaining advice from within the Intelligence Community concerning:

- (1) Production, review and coordination of national foreign intelligence;
- (2) Priorities for the National Foreign Intelligence Program budget;
- (3) Interagency exchanges of foreign intelligence information;
- (4) Arrangements with foreign governments on intelligence matters;
- (5) Protection of intelligence sources and methods;
- (6) Activities of common concern; and
- (7) Such other matters as may be referred by the Director of Central Intelligence.

(b) *Membership.* Advisory groups established pursuant to this section shall be chaired by the Director of Central Intelligence or his designated representative and shall consist of senior representatives from organizations within the Intelligence Community and from departments or agencies containing such organizations, as designated by the Director of Central Intelligence. Groups for consideration of substantive intelligence matters will include representatives of organizations involved in the collection, processing and analysis of intelligence. A senior representative of the Secretary of Commerce, the Attorney General, the Assistant to the President for National Security Affairs, and the Office of the Secretary of Defense shall be invited to participate in any group which deals with other than substantive intelligence matters.

### 1.4 THE INTELLIGENCE COMMUNITY

The agencies within the Intelligence Community shall, in accordance with applicable United States law and with the other provisions of this Order, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:

- (a) Collection of information needed by the President, the National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities;
- (b) Production and dissemination of intelligence;
- (c) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;
- (d) Special activities;
- (e) Administrative and support activities within the United States and abroad necessary for the performance of authorized activities; and
- (f) Such other intelligence activities as the President may direct from time to time.

### 1.5 DIRECTOR OF CENTRAL INTELLIGENCE

In order to discharge the duties and responsibilities prescribed by law, the Director of Central Intelligence shall be responsible directly to the President and the NSC and shall:

- (a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;
- (b) Develop such objectives and guidance for the Intelligence Community as will enhance capabilities for

responding to expected future needs for national foreign intelligence;

(c) Promote the development and maintenance of services of common concern by designated intelligence organizations on behalf of the Intelligence Community;

(d) Ensure implementation of special activities;

(e) Formulate policies concerning foreign intelligence and counterintelligence arrangements with foreign governments, coordinate foreign intelligence and counterintelligence relationships between agencies of the Intelligence Community and the intelligence or internal security services of foreign governments, and establish procedures governing the conduct of liaison by any department or agency with such services on narcotics activities;

(f) Participate in the development of procedures approved by the Attorney General governing criminal narcotics intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;

(g) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information, and products;

(h) Ensure that programs are developed which protect intelligence sources, methods, and analytical procedures;

(i) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence;

(j) Establish appropriate staffs, committees, or other advisory groups to assist in the execution of the Director's responsibilities;

(k) Have full responsibility for production and dissemination of national foreign intelligence, and authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations, ensuring that appropriate mechanisms for competitive analysis are developed so that diverse points of view are considered fully and differences of judgment within the Intelligence Community are brought to the attention of national policymakers;

(l) Ensure the timely exploitation and dissemination of data gathered by national foreign intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government entities and military commands;

(m) Establish mechanisms which translate national foreign intelligence objectives and priorities approved by the NSC into specific guidance for the Intelligence Community, resolve conflicts in tasking priority, provide to departments and agencies having information collection capabilities that are not part of the National Foreign Intelligence Program advisory tasking concerning collection of national foreign intelligence, and provide for the development of plans and arrangements for transfer of required collection tasking authority to the Secretary of Defense when directed by the President;

(n) Develop, with the advice of the program managers and departments and agencies concerned, the consolidated National Foreign Intelligence Program budget, and present it to the President and the Congress;

(o) Review and approve all requests for reprogramming National Foreign Intelligence Program funds, in accordance with guidelines established by the Office of Management and Budget;

(p) Monitor National Foreign Intelligence Program implementation, and, as necessary, conduct program and performance audits and evaluations;

(q) Together with the Secretary of Defense, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs consistent with the requirement to develop competitive analysis, and provide to and obtain from the Secretary of Defense all information necessary for this purpose;

(r) In accordance with law and relevant procedures approved by the Attorney General under this Order, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies; and

(s) Facilitate the use of national foreign intelligence products by Congress in a secure manner.

#### 1.6 DUTIES AND RESPONSIBILITIES OF THE HEADS OF EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES

(a) The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant procedures approved by the Attorney General under this Order, give the Director of Central Intelligence access to all information relevant to the national intelligence needs of the United States, and shall give due consideration to the requests from the Director of Central Intelligence for appropriate support for Intelligence Community activities.

(b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely development and submission to the Director of Central Intelligence by the program managers and heads of component activities of proposed national programs and budgets in the format designated by the Director of Central Intelligence, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities.

(c) The heads of departments and agencies involved in the National Foreign Intelligence Program may appeal to the President decisions by the Director of Central Intelligence on budget or reprogramming matters of the National Foreign Intelligence Program.

#### 1.7 SENIOR OFFICIALS OF THE INTELLIGENCE COMMUNITY

The heads of departments and agencies with organizations in the Intelligence Community or the heads of such organizations, as appropriate, shall:

(a) Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

(b) In any case involving serious or continuing breaches of security, recommend to the Attorney General that the case be referred to the FBI for further investigation;

(c) Furnish the Director of Central Intelligence and the NSC, in accordance with applicable law and procedures approved by the Attorney General under this Order, the information required for the performance of their respective duties;

(d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive;

(e) Protect intelligence and intelligence sources and methods from unauthorized disclosure consistent with guidance from the Director of Central Intelligence;

(f) Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of intelligence resulting from criminal narcotics intelligence activities abroad if their departments, agencies, or organizations have intelligence responsibilities for foreign or domestic narcotics production and trafficking;

(h) Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

(i) Ensure that the Inspectors General and General Counsels for their organizations have access to any information necessary to perform their duties assigned by this Order.

#### 1.8 THE CENTRAL INTELLIGENCE AGENCY

All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by this Order; the National Security Act of 1947, as amended [see Short Title note above]; the CIA Act of 1949, as amended [see Short Title of 1949 Amendment note above]; appropriate directives or other applicable law, the CIA shall:

(a) Collect, produce and disseminate foreign intelligence and counterintelligence, including information not otherwise obtainable. The collection of foreign intelligence or counterintelligence within the United States shall be coordinated with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(b) Collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking;

(c) Conduct counterintelligence activities outside the United States and, without assuming or performing any internal security functions, conduct counterintelligence activities within the United States in coordination with the FBI as required by procedures agreed upon [by] the Director of Central Intelligence and the Attorney General;

(d) Coordinate counterintelligence activities and the collection of information not otherwise obtainable when conducted outside the United States by other departments and agencies;

(e) Conduct special activities approved by the President. No agency except the CIA (or the Armed Forces of the United States in time of war declared by Congress or during any period covered by a report from the President to the Congress under the War Powers Resolution (87 Stat. 855) [50 U.S.C. 1541 et seq.]) may conduct any special activity unless the President determines that another agency is more likely to achieve a particular objective;

(f) Conduct services of common concern for the Intelligence Community as directed by the NSC;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;

(h) Protect the security of its installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the CIA as are necessary; and

(i) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) and [sic] through (h) above, including procurement and essential cover and proprietary arrangements.

#### 1.9 THE DEPARTMENT OF STATE

The Secretary of State shall:

(a) Overtly collect information relevant to United States foreign policy concerns;

(b) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities;

(c) Disseminate, as appropriate, reports received from United States diplomatic and consular posts;

(d) Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and

(e) Support Chiefs of Missions in discharging their statutory responsibilities for direction and coordination of mission activities.

#### 1.10 THE DEPARTMENT OF THE TREASURY

The Secretary of the Treasury shall:

(a) Overtly collect foreign financial and monetary information;

(b) Participate with the Department of State in the overt collection of general foreign economic information;

(c) Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and

(d) Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General.

#### 1.11 THE DEPARTMENT OF DEFENSE

The Secretary of Defense shall:

(a) Collect national foreign intelligence and be responsive to collection tasking by the Director of Central Intelligence;

(b) Collect, produce and disseminate military and military-related foreign intelligence and counterintelligence as required for execution of the Secretary's responsibilities;

(c) Conduct programs and missions necessary to fulfill national, departmental and tactical foreign intelligence requirements;

(d) Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General;

(e) Conduct, as the executive agent of the United States Government, signals intelligence and communications security activities, except as otherwise directed by the NSC;

(f) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions;

(h) Protect the security of Department of Defense installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

(i) Establish and maintain military intelligence relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations, and ensure that such relationships and programs are in accordance with policies formulated by the Director of Central Intelligence;

(j) Direct, operate, control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities; and

(k) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through (j) above.

#### 1.12 INTELLIGENCE COMPONENTS UTILIZED BY THE SECRETARY OF DEFENSE

In carrying out the responsibilities assigned in section 1.11, the Secretary of Defense is authorized to utilize the following:

(a) *Defense Intelligence Agency*, whose responsibilities shall include:

(1) Collection, production, or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint

Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;

(2) Collection and provision of military intelligence for national foreign intelligence and counterintelligence products;

(3) Coordination of all Department of Defense intelligence collection requirements;

(4) Management of the Defense Attache system; and

(5) Provision of foreign intelligence and counterintelligence staff support as directed by the Joint Chiefs of Staff.

(b) *National Security Agency*, whose responsibilities shall include:

(1) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

(2) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(3) Collection of signals intelligence information for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(4) Processing of signals intelligence data for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(5) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the Director of Central Intelligence;

(6) Collection, processing and dissemination of signals intelligence information for counterintelligence purposes;

(7) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities, and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;

(8) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;

(9) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security;

(10) Protection of the security of its installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the NSA as are necessary;

(11) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations;

(12) Conduct of foreign cryptologic liaison relationships, with liaison for intelligence purposes conducted in accordance with policies formulated by the Director of Central Intelligence; and

(13) Conduct of such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (1) through (12) above, including procurement.

(c) *Offices for the collection of specialized intelligence through reconnaissance programs*, whose responsibilities shall include:

(1) Carrying out consolidated reconnaissance programs for specialized intelligence;

(2) Responding to tasking in accordance with procedures established by the Director of Central Intelligence; and

(3) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.

(d) *The foreign intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps, whose responsibilities shall include:*

(1) Collection, production and dissemination of military and military-related foreign intelligence and counterintelligence, and information on the foreign aspects of narcotics production and trafficking. When collection is conducted in response to national foreign intelligence requirements, it will be conducted in accordance with guidance from the Director of Central Intelligence. Collection of national foreign intelligence, not otherwise obtainable, outside the United States shall be coordinated with the CIA, and such collection within the United States shall be coordinated with the FBI;

(2) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI; and

(3) Monitoring of the development, procurement and management of tactical intelligence systems and equipment and conducting related research, development, and test and evaluation activities.

(e) *Other offices within the Department of Defense appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense.* If such other offices are used for intelligence purposes, the provisions of Part 2 of this Order shall apply to those offices when used for those purposes.

#### 1.13 THE DEPARTMENT OF ENERGY

The Secretary of Energy shall:

(a) Participate with the Department of State in overtly collecting information with respect to foreign energy matters;

(b) Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;

(c) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

(d) Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

#### 1.14 THE FEDERAL BUREAU OF INVESTIGATION

Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(a) Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the Department of Defense, the FBI shall coordinate with the Department of Defense;

(b) Conduct counterintelligence activities outside the United States in coordination with the CIA as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(c) Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community, or, when requested by the Director of the National Security Agency, to support the communications security activities of the United States Government;

(d) Produce and disseminate foreign intelligence and counterintelligence; and

(e) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

### PART 2—CONDUCT OF INTELLIGENCE ACTIVITIES

#### 2.1 NEED

Accurate and timely information about the capabilities, intentions and activities of foreign powers, organi-

zations, or persons and their agents is essential to informed decisionmaking in the areas of national defense and foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

#### 2.2 PURPOSE

This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities and espionage conducted by foreign powers. Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

#### 2.3 COLLECTION OF INFORMATION

Agencies within the Intelligence Community are authorized to collect, retain or disseminate information concerning United States persons only in accordance with procedures established by the head of the agency concerned and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order. Those procedures shall permit collection, retention and dissemination of the following types of information:

(a) Information that is publicly available or collected with the consent of the person concerned;

(b) Information constituting foreign intelligence or counterintelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable shall be undertaken by the FBI or, when significant foreign intelligence is sought, by other authorized agencies of the Intelligence Community, provided that no foreign intelligence collection by such agencies may be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons;

(c) Information obtained in the course of a lawful foreign intelligence, counterintelligence, international narcotics or international terrorism investigation;

(d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims or hostages of international terrorist organizations;

(e) Information needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other agencies of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting;

(f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility;

(g) Information arising out of a lawful personnel, physical or communications security investigation;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Incidentally obtained information that may indicate involvement in activities that may violate federal, state, local or foreign laws; and

(j) Information necessary for administrative purposes.

In addition, agencies within the Intelligence Community may disseminate information, other than information derived from signals intelligence, to each appropriate agency within the Intelligence Community for

purposes of allowing the recipient agency to determine whether the information is relevant to its responsibilities and can be retained by it.

#### 2.4 COLLECTION TECHNIQUES

Agencies within the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Agencies are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize:

(a) The CIA to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance;

(b) Unconsented physical searches in the United States by agencies other than the FBI, except for:

(1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers; and

(2) Searches by CIA of personal property of non-United States persons lawfully in its possession.

(c) Physical surveillance of a United States person in the United States by agencies other than the FBI, except for:

(1) Physical surveillance of present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting; and

(2) Physical surveillance of a military person employed by a nonintelligence element of a military service.

(d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

#### 2.5 ATTORNEY GENERAL APPROVAL

The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. Electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978 [50 U.S.C. 1801 et seq.], shall be conducted in accordance with that Act, as well as this Order.

#### 2.6 ASSISTANCE TO LAW ENFORCEMENT AUTHORITIES

Agencies within the Intelligence Community are authorized to:

(a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property and facilities of any agency within the Intelligence Community;

(b) Unless otherwise precluded by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;

(c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or, when lives are endangered,

to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the General Counsel of the providing agency; and

(d) Render any other assistance and cooperation to law enforcement authorities not precluded by applicable law.

#### 2.7 CONTRACTING

Agencies within the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

#### 2.8 CONSISTENCY WITH OTHER LAWS

Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

#### 2.9 UNDISCLOSED PARTICIPATION IN ORGANIZATIONS WITHIN THE UNITED STATES

No one acting on behalf of agencies within the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any agency within the Intelligence Community without disclosing his intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such participation shall be authorized only if it is essential to achieving lawful purposes as determined by the agency head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

#### 2.10 HUMAN EXPERIMENTATION

No agency within the Intelligence Community shall sponsor, contract for or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

#### 2.11 PROHIBITION ON ASSASSINATION

No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

#### 2.12 INDIRECT PARTICIPATION

No agency of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

### PART 3—GENERAL PROVISIONS

#### 3.1 CONGRESSIONAL OVERSIGHT

The duties and responsibilities of the Director of Central Intelligence and the heads of other departments, agencies, and entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be as provided in title 50, United States Code, section 413. The requirements of section 662 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2422), and section 501 of the National Security Act of 1947, as amended (50 U.S.C. 413), shall apply to all special activities as defined in this Order.

## 3.2 IMPLEMENTATION

The NSC, the Secretary of Defense, the Attorney General, and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an agency in the Intelligence Community other than the FBI. The National Security Council may establish procedures in instances where the agency head and the Attorney General are unable to reach agreement on other than constitutional or other legal grounds.

## 3.3 PROCEDURES

Until the procedures required by this Order have been established, the activities herein authorized which require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order No. 12036 [formerly set out above]. Procedures required by this Order shall be established as expeditiously as possible. All procedures promulgated pursuant to this Order shall be made available to the congressional intelligence committees.

## 3.4 DEFINITIONS

For the purposes of this Order, the following terms shall have these meanings:

(a) *Counterintelligence* means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

(b) *Electronic surveillance* means acquisition of a non-public communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly [sic] present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(c) *Employee* means a person employed by, assigned to or acting for an agency within the Intelligence Community.

(d) *Foreign intelligence* means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

(e) *Intelligence activities* means all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order.

(f) *Intelligence Community* and *agencies within the Intelligence Community* refer to the following agencies or organizations:

- (1) The Central Intelligence Agency (CIA);
- (2) The National Security Agency (NSA);
- (3) The Defense Intelligence Agency (DIA);
- (4) The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
- (5) The Bureau of Intelligence and Research of the Department of State;
- (6) The intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy; and
- (7) The staff elements of the Director of Central Intelligence.

(g) *The National Foreign Intelligence Program* includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President:

- (1) The programs of the CIA;

(2) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance, except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;

(3) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;

(4) Activities of the staff elements of the Director of Central Intelligence;

(5) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in the National Foreign Intelligence Program.

(h) *Special activities* means activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence United States political processes, public opinion, policies, or media and do not include diplomatic activities or the collection and production of intelligence or related support functions.

(i) *United States person* means a United States citizen, an alien known by the intelligence agency concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

## 3.5 PURPOSE AND EFFECT

This Order is intended to control and provide direction and guidance to the Intelligence Community. Nothing contained herein or in any procedures promulgated hereunder is intended to confer any substantive or procedural right or privilege on any person or organization.

## 3.6 REVOCATION

Executive Order No. 12036 of January 24, 1978, as amended, entitled "United States Intelligence Activities," is revoked.

RONALD REAGAN.

## EXECUTIVE ORDER NO. 12334

Ex. Ord. No. 12334, Dec. 4, 1981, 46 F.R. 59955, as amended by Ex. Ord. No. 12701, Feb. 14, 1990, 55 F.R. 5953, which established the President's Intelligence Oversight Board, was revoked by Ex. Ord. No. 12863, § 3.3, Sept. 13, 1993, 58 F.R. 48441, set out below.

## EXECUTIVE ORDER NO. 12356

For Ex. Ord. No. 12356, see note under section 435 of this title.

## EX. ORD. NO. 12863. PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

Ex. Ord. No. 12863, Sept. 13, 1993, 58 F.R. 48441, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to enhance the security of the United States by improving the quality and effectiveness of intelligence available to the United States, and to assure the legality of activities of the Intelligence Community, it is ordered as follows:

## PART I. ASSESSMENT OF INTELLIGENCE ACTIVITIES

SECTION 1.1. There is hereby established within the White House Office, Executive Office of the President,



the President's Foreign Intelligence Advisory Board (PFIAB). The PFIAB shall consist of not more than 16 members, who shall serve at the pleasure of the President and shall be appointed by the President from among trustworthy and distinguished citizens outside the Government who are qualified on the basis of achievement, experience and independence. The President shall establish the terms of the members upon their appointment. To the extent practicable, one-third of the PFIAB at any one time shall be comprised of members whose term of service does not exceed 2 years. The President shall designate a Chairman and Vice Chairman from among the members. The PFIAB shall utilize full-time staff and consultants as authorized by the President. Such staff shall be headed by an Executive Director, appointed by the President.

SEC. 1.2. The PFIAB shall assess the quality, quantity, and adequacy of intelligence collection, of analysis and estimates, and of counterintelligence and other intelligence activities. The PFIAB shall have the authority to review continually the performance of all agencies of the Federal Government that are engaged in the collection, evaluation, or production of intelligence or the execution of intelligence policy. The PFIAB shall further be authorized to assess the adequacy of management, personnel and organization in the intelligence agencies. The heads of departments and agencies of the Federal Government, to the extent permitted by law, shall provide the PFIAB with access to all information that the PFIAB deems necessary to carry out its responsibilities.

SEC. 1.3. The PFIAB shall report directly to the President and advise him concerning the objectives, conduct, management and coordination of the various activities of the agencies of the Intelligence Community. The PFIAB shall report periodically, but at least semi-annually, concerning its findings and appraisals and shall make appropriate recommendations for the improvement and enhancement of the intelligence efforts of the United States.

SEC. 1.4. The PFIAB shall consider and recommend appropriate action with respect to matters, identified to the PFIAB by the Director of Central Intelligence, the Central Intelligence Agency, or other Government agencies engaged in intelligence or related activities, in which the advice of the PFIAB will further the effectiveness of the national intelligence effort. With respect to matters deemed appropriate by the President, the PFIAB shall advise and make recommendations to the Director of Central Intelligence, the Central Intelligence Agency, and other Government agencies engaged in intelligence and related activities, concerning ways to achieve increased effectiveness in meeting national intelligence needs.

## PART II. OVERSIGHT OF INTELLIGENCE ACTIVITIES

SEC. 2.1. The Intelligence Oversight Board (IOB) is hereby established as a standing committee of the PFIAB. The IOB shall consist of no more than four members appointed from among the membership of the PFIAB by the Chairman of the PFIAB. The Chairman of the IOB shall be appointed by the Chairman of the PFIAB. The Chairman of the PFIAB may also serve as the Chairman of the IOB. The IOB shall utilize such full-time staff and consultants as authorized by the Chairman of the PFIAB.

SEC. 2.2. The IOB shall:

- (a) prepare for the President reports of intelligence activities that the IOB believes may be unlawful or contrary to Executive order or Presidential directive;
- (b) forward to the Attorney General reports received concerning intelligence activities that the IOB believes may be unlawful or contrary to Executive order or Presidential directive;
- (c) review the internal guidelines of each agency within the Intelligence Community that concern the lawfulness of intelligence activities;
- (d) review the practices and procedures of the Inspectors General and General Counsel of the Intel-

ligence Community for discovering and reporting intelligence activities that may be unlawful or contrary to Executive order or Presidential directive; and

(e) conduct such investigations as the IOB deems necessary to carry out its functions under this order.

SEC. 2.3. The IOB shall, when required by this order, report to the President through the Chairman of the PFIAB. The IOB shall consider and take appropriate action with respect to matters identified by the Director of Central Intelligence, the Central Intelligence Agency or other agencies of the Intelligence Community. With respect to matters deemed appropriate by the President, the IOB shall advise and make appropriate recommendations to the Director of Central Intelligence, the Central Intelligence Agency and other agencies of the Intelligence Community.

SEC. 2.4. The heads of departments and agencies of the Intelligence Community, to the extent permitted by law, shall provide the IOB with all information that the IOB deems necessary to carry out its responsibilities. Inspectors General and General Counsel of the Intelligence Community, to the extent permitted by law, shall report to the IOB, at least on a quarterly basis and from time to time as necessary or appropriate, concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive.

## PART III. GENERAL PROVISIONS

SEC. 3.1. Information made available to the PFIAB, or members of the PFIAB acting in their IOB capacity, shall be given all necessary security protection in accordance with applicable laws and regulations. Each member of the PFIAB, each member of the PFIAB's staff and each of the PFIAB's consultants shall execute an agreement never to reveal any classified information obtained by virtue of his or her services with the PFIAB except to the President or to such persons as the President may designate.

SEC. 3.2. Members of the PFIAB shall serve without compensation but may receive transportation expenses and per diem allowance as authorized by law. Staff and consultants to the PFIAB shall receive pay and allowances as authorized by the President.

SEC. 3.3. Executive Order No. 12334 of December 4, 1981, as amended, and Executive Order No. 12537 of October 28, 1985, as amended [50 U.S.C. 403 note], are revoked.

WILLIAM J. CLINTON.

## ACT REFERRED TO IN OTHER SECTIONS

The National Security Act of 1947 is referred to in section 47e of this title; section 469 of Appendix to this title; title 21 section 1503.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 113, 125, 155.

## § 401a. Definitions

As used in this Act:

(1) The term "intelligence" includes foreign intelligence and counterintelligence.

(2) The term "foreign intelligence" means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons.

(3) The term "counterintelligence" means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(4) The term “intelligence community” includes—

(A) the Office of the Director of Central Intelligence, which shall include the Office of the Deputy Director of Central Intelligence, the National Intelligence Council (as provided for in section 403-5(b)(3)<sup>1</sup> of this title), and such other offices as the Director may designate;

(B) the Central Intelligence Agency;

(C) the National Security Agency;

(D) the Defense Intelligence Agency;

(E) the Central Imagery Office;

(F) the National Reconnaissance Office;

(G) other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;

(H) the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, and the Department of Energy;

(I) the Bureau of Intelligence and Research of the Department of State; and

(J) such other elements of any other department or agency as may be designated by the President, or designated jointly by the Director of Central Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

(5) The terms “national intelligence” and “intelligence related to the national security”—

(A) each refer to intelligence which pertains to the interests of more than one department or agency of the Government; and

(B) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the Director of Central Intelligence and the Attorney General, or otherwise as expressly provided for in this title.<sup>2</sup>

(6) The term “National Foreign Intelligence Program” refers to all programs, projects, and activities of the intelligence community, as well as any other programs of the intelligence community designated jointly by the Director of Central Intelligence and the head of a United States department or agency or by the President. Such term does not include programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by United States Armed Forces.

(July 26, 1947, ch. 343, § 3, as added Oct. 24, 1992, Pub. L. 102-496, title VII, § 702, 106 Stat. 3188; amended Oct. 14, 1994, Pub. L. 103-359, title V, § 501(a)(1), 108 Stat. 3428.)

#### REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

<sup>1</sup> So in original. Probably should be section “403-3(b)(3)”.

<sup>2</sup> See References in Text note below.

This title, referred to in par. (5)(B), probably should be “this Act”, meaning act July 26, 1947, see above, because this section is not a part of any title of act of July 26, 1947.

#### AMENDMENTS

1994—Par. (4)(E). Pub. L. 103-359 substituted “the Central Imagery Office” for “the central imagery authority within the Department of Defense”.

#### AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of Title 22, Foreign Relations and Intercourse, and section 161(d) of Pub. L. 103-236, set out as a note under section 2651a of Title 22.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 403-2a of this title.

#### SUBCHAPTER I—COORDINATION FOR NATIONAL SECURITY

### § 402. National Security Council

#### (a) Establishment; presiding officer; functions; composition

There is established a council to be known as the National Security Council (hereinafter in this section referred to as the “Council”).

The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of—

(1) the President;

(2) the Vice President;

(3) the Secretary of State;

(4) the Secretary of Defense;

(5) the Director for Mutual Security;

(6) the Chairman of the National Security Resources Board; and

(7) the Secretaries and Under Secretaries of other executive departments and of the military departments, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.

#### (b) Additional functions

In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council—

(1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national secu-

rity, for the purpose of making recommendations to the President in connection therewith; and

(2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.

**(c) Executive secretary; appointment; staff employees**

The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President. The executive secretary, subject to the direction of the Council, is authorized, subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

**(d) Recommendations and reports**

The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require.

**(e) Participation of Chairman or Vice Chairman of Joint Chiefs of Staff**

The Chairman (or in his absence the Vice Chairman) of the Joint Chiefs of Staff may, in his role as principal military adviser to the National Security Council and subject to the direction of the President, attend and participate in meetings of the National Security Council.

**(f) Participation by Director of National Drug Control Policy**

The Director of National Drug Control Policy may, in his role as principal adviser to the National Security Council on national drug control policy, and subject to the direction of the President, attend and participate in meetings of the National Security Council.

**(g) Board for Low Intensity Conflict**

The President shall establish within the National Security Council a board to be known as the "Board for Low Intensity Conflict". The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.

**(h) Participation of Director of Central Intelligence**

The Director of Central Intelligence (or, in the Director's absence, the Deputy Director of Central Intelligence) may, in the performance of the Director's duties under this Act and subject to the direction of the President, attend and participate in meetings of the National Security Council.

(July 26, 1947, ch. 343, title I, §101, 61 Stat. 496; Aug. 10, 1949, ch. 412, §3, 63 Stat. 579; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; Oct. 10, 1951, ch. 479, title V, §501(e)(1), 65 Stat. 378; Oct. 1, 1986, Pub. L. 99-433, title II, §203, 100 Stat. 1011; Oct. 18, 1986, Pub. L. 99-500, §101(c) [title IX, §9115(f)], 100 Stat. 1783-82, 1783-125, and Oct. 30, 1986, Pub. L. 99-591, §101(c) [title IX, §9115(f)], 100 Stat. 3341-82, 3341-125; Nov. 14, 1986, Pub. L.

99-661, div. A, title XIII, §1311(f), 100 Stat. 3986; Nov. 18, 1988, Pub. L. 100-690, title I, §1003(a)(3), 102 Stat. 4182; Oct. 24, 1992, Pub. L. 102-496, title VII, §703, 106 Stat. 3189.)

AMENDMENT OF SECTION

*For repeal of amendment by section 1506 of Title 21, Food and Drugs, see Effective and Termination Dates of 1988 Amendment note below.*

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (c), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

This Act, referred to in subsec. (h), means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

In subsec. (c), provisions that specified compensation of \$10,000 per year for the executive secretary to the Council were omitted. Section 304(b) of Pub. L. 88-426 amended section 105 of Title 3, The President, to include the executive secretary of the Council among those whose compensation was authorized to be fixed by the President. Section 1(a) of Pub. L. 95-570 further amended section 105 of Title 3 to authorize the President to appoint and fix the pay of the employees of the White House Office subject to certain provisions.

In subsec. (c), "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949, as amended" on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1992—Subsec. (h). Pub. L. 102-496 added subsec. (h).

1988—Subsecs. (f), (g). Pub. L. 100-690, §§1003(a)(3), 1009, temporarily added subsec. (f) and redesignated former subsec. (f) as (g). See Effective and Termination Dates of 1988 Amendment note below.

1986—Subsec. (e). Pub. L. 99-433 added subsec. (e).

Subsec. (f). Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661 amended section identically adding subsec. (f).

1951—Subsec. (a). Act Oct. 10, 1951, inserted cl. (5) relating to Director for Mutual Security, in fourth paragraph, and renumbered former cls. (5) and (6) thereof as cls. (6) and (7), respectively.

1949—Subsec. (a). Act Aug. 10, 1949, added the Vice President to the Council, removed the Secretaries of the military departments, to authorize the President to add, with the consent of the Senate, Secretaries and Under Secretaries of other executive departments and of the military department, and the Chairmen of the Munitions Board and the Research and Development Board.

Subsec. (c). Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923, as amended".

EFFECTIVE AND TERMINATION DATES OF 1988

AMENDMENT

Amendment by Pub. L. 100-690 effective Jan. 21, 1989, and repealed Sept. 30, 1997, see section 1506 of Title 21, Food and Drugs, and section 1012 of Pub. L. 100-690, set out as an Effective Date note under section 1501 of Title 21.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

Office of Director for Mutual Security abolished and functions of Director, including those as a member of

National Security Council, transferred to Director of Foreign Operations Administration by Reorg. Plan No. 7 of 1953, eff. Aug. 1, 1953, 18 F.R. 4541, set out in the Appendix to Title 5, Government Organization and Employees. Foreign Operations Administration abolished by Ex. Ord. No. 10610, May 9, 1955, 20 F.R. 3179, and its functions and offices transferred to Department of State to be administered by International Cooperation Administration. For later transfer, see section 2381 of Title 22, Foreign Relations and Intercourse, and notes set out under that section.

National Security Resources Board, together with Office of Chairman, abolished by section 6 of Reorg. Plan No. 3 of 1953, eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634, set out under section 404 of this title. Functions of Chairman with limited exception, including his functions as a member of National Security Council transferred to Office of Defense Mobilization by section 2(a) of Reorg. Plan No. 3 of 1953. Functions of Director of Office of Defense Mobilization with respect to being a member of National Security Council transferred to Director of Office of Civil and Defense Mobilization by Reorg. Plan No. 1 of 1958, § 4, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended by Pub. L. 85-763, Aug. 26, 1958, 72 Stat. 861, set out as a note under section 5195 of Title 42, The Public Health and Welfare. For subsequent transfers to Office of Emergency Planning, Office of Emergency Preparedness, and President, see Transfer of Functions notes set out under section 404 of this title.

Munitions Board, together with office of Chairman, abolished by section 2 of Reorg. Plan No. 6 of 1953, eff. June 30, 1953, 18 F.R. 3743, 67 Stat. 638, set out in the Appendix to Title 5, Government Organization and Employees. All functions vested in Munitions Board transferred to Secretary of Defense by section 1(a) of Reorg. Plan No. 6 of 1953.

Research and Development Board, together with office of Chairman, abolished by section 2 of Reorg. Plan No. 6 of 1953, eff. June 30, 1953, 18 F.R. 3743, 67 Stat. 638, set out in the Appendix to Title 5, Government Organization and Employees. Functions vested in Board transferred to Secretary of Defense by section 1(a) of Reorg. Plan No. 6 of 1953.

National Security Council, together with its functions, records, property, personnel, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) transferred to Executive Office of President by Reorg. Plan No. 4 of 1949, eff. Aug. 20, 1949, 14 F.R. 5227, 63 Stat. 1067, set out in the Appendix to Title 5, Government Organization and Employees.

#### RULE OF CONSTRUCTION FOR DUPLICATE AUTHORIZATION AND APPROPRIATION PROVISIONS OF PUBLIC LAWS 99-500, 99-591, AND 99-661

For rule of construction for certain duplicate provisions of Public Laws 99-500, 99-591, and 99-661, see section 6 of Pub. L. 100-26, set out as a note under section 2302 of Title 10, Armed Forces.

#### SECTION AS UNAFFECTED BY REPEALS

Repeals by section 542(a) of Mutual Security Act of 1954 did not repeal amendment to this section by act Oct. 10, 1951.

#### NATIONAL SECURITY AGENCY ACT OF 1959

Pub. L. 86-36, May 29, 1959, 73 Stat. 63, as amended by Pub. L. 87-367, title II, §§ 201, 204, Oct. 4, 1961, 75 Stat. 789, 791; Pub. L. 87-793, § 1001(c), Oct. 11, 1962, 76 Stat. 864; Sept. 23, 1950, ch. 1024, title III, § 306(a), as added Mar. 26, 1964, Pub. L. 88-290, 78 Stat. 170; Aug. 14, 1964, Pub. L. 88-426, title III, § 306(h), 78 Stat. 430; Oct. 6, 1964, Pub. L. 88-631, § 3(d), 78 Stat. 1008; Sept. 6, 1966, Pub. L. 89-554, § 8(a), 80 Stat. 660; Oct. 8, 1966, Pub. L. 89-632, § 1(e), 80 Stat. 878; Pub. L. 91-187, § 2, Dec. 30, 1969, 83 Stat. 850; Pub. L. 96-450, title IV, § 402(a), Oct. 14, 1980, 94 Stat. 1977; Pub. L. 97-89, title VI, §§ 601-603, Dec. 4, 1981, 95 Stat. 1154-1156, eff. Oct. 1, 1981; Pub. L. 99-335,

title V, § 507(a), June 6, 1986, 100 Stat. 628; Pub. L. 99-569, title V, § 505, Oct. 27, 1986, 100 Stat. 3200; Pub. L. 101-193, title V, § 505(b), Nov. 30, 1989, 103 Stat. 1709; Pub. L. 101-194, title V, § 506(c)(2), Nov. 30, 1989, 103 Stat. 1759; Pub. L. 102-88, title V, § 503, Aug. 14, 1991, 105 Stat. 436; Pub. L. 102-183, title IV, § 405, Dec. 4, 1991, 105 Stat. 1267; Pub. L. 102-496, title III, § 304(a), title IV, § 405, title VIII, § 803(b), Oct. 24, 1992, 106 Stat. 3183, 3186, 3253; Pub. L. 103-359, title VIII, § 806(b)(2), Oct. 14, 1994, 108 Stat. 3442, provided: "That this Act [this note] may be cited as the 'National Security Agency Act of 1959'." [Amended Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 660; Pub. L. 96-450, title IV, § 402(a)(2), Oct. 14, 1980, 94 Stat. 1978.]

"SEC. 2. (a) The Secretary of Defense (or his designee) is authorized to establish such positions, and to appoint thereto, without regard to the civil service laws, such officers and employees, in the National Security Agency, as may be necessary to carry out the functions of such agency. The rates of basic pay for such positions shall be fixed by the Secretary of Defense (or his designee for this purpose) in relation to the rates of basic pay provided for in subpart D of part III of title 5, United States Code, for positions subject to such title which have corresponding levels of duties and responsibilities. Except as otherwise provided by law, no officer or employee of the National Security Agency shall be paid basic pay at a rate in excess of the maximum rate payable under section 5376 of such title and not more than 70 such officers and employees shall be paid within the range of rates authorized in section 5376 of such title.

"(b) The Secretary of Defense (or his designee) may provide officers and employees of the National Security Agency other compensation, benefits, incentives, and allowances which are consistent with, and do not exceed the levels authorized for, such compensation, benefits, incentives, or allowances by title 5, United States Code.

[Amended Pub. L. 87-367, title II, § 201, Oct. 4, 1961, 75 Stat. 789; Sept. 23, 1950, ch. 1024, title III, § 306(a), as added Mar. 26, 1964, Pub. L. 88-290, 78 Stat. 170; Aug. 14, 1964, Pub. L. 88-426, title III, § 306(h), 78 Stat. 430; Oct. 6, 1964, Pub. L. 88-631, § 3(d), 78 Stat. 1008; Oct. 8, 1966, Pub. L. 89-632, § 1(e)(1), 80 Stat. 878; Pub. L. 102-496, title IV, § 405, Oct. 24, 1992, 106 Stat. 3186.]

"SEC. 3. [Amended section 1581(a) of Title 10, Armed Forces.]

"SEC. 4. The Secretary of Defense (or his designee for the purpose) is authorized to—

"(1) establish in the National Security Agency (A) professional engineering positions primarily concerned with research and development and (B) professional positions in the physical and natural sciences, medicine, and cryptology; and

"(2) fix the respective rates of pay of such positions at rates equal to rates of basic pay contained in grades 16, 17, and 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

Officers and employees appointed to positions established under this section shall be in addition to the number of officers and employees appointed to positions under section 2 of this Act who may be paid at rates equal to rates of basic pay contained in grades 16, 17, and 18 of the General Schedule. [As amended Pub. L. 87-367, title II, § 204, Oct. 4, 1961, 75 Stat. 791; Pub. L. 87-793, § 1001(c), Oct. 11, 1962, 76 Stat. 864; Pub. L. 89-632, § 1(e)(2), Oct. 8, 1966, 80 Stat. 878; Pub. L. 91-187, § 2, Dec. 30, 1969, 83 Stat. 850].

"SEC. 5. Officers and employees of the National Security Agency who are citizens or nationals of the United States may be granted additional compensation, in accordance with regulations which shall be prescribed by the Secretary of Defense, not in excess of additional compensation authorized by section 207 of the Independent Offices Appropriation Act, 1949, as amended (5 U.S.C. 118h) [see 5 U.S.C. 5941], for employees whose rates of basic compensation are fixed by statute.

"SEC. 6. (a) Except as provided in subsection (b) of this section, nothing in this Act or any other law (including, but not limited to, the first section and sec-

tion 2 of the Act of August 28, 1935 (5 U.S.C. 654) [repealed by Pub. L. 86-626, title I, §101, July 12, 1960, 74 Stat. 427]) shall be construed to require the disclosure of the organization or any function of the National Security Agency, or any information with respect to the activities thereof, or of the names, titles, salaries, or number of the persons employed by such agency.

“(b) The reporting requirements of section 1582 of title 10, United States Code, shall apply to positions established in the National Security Agency in the manner provided by section 4 of this Act.

“SEC. 7. [Repealed. Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 660.]

“SEC. 8. The foregoing provisions of this Act shall take effect on the first day of the first pay period which begins later than the thirtieth day following the date of enactment of this Act.

“SEC. 9. (a) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), section 5536 of title 5, United States Code, and section 2675 of title 10, United States Code, the Director of the National Security Agency, on behalf of the Secretary of Defense, may lease real property outside the United States, for periods not exceeding ten years, for the use of the National Security Agency for special cryptologic activities and for housing for personnel assigned to such activities.

“(b) The Director of the National Security Agency, on behalf of the Secretary of Defense, may provide to certain civilian and military personnel of the Department of Defense who are assigned to special cryptologic activities outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection—

“(1) allowances and benefits—

“(A) comparable to those provided by the Secretary of State to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) or any other provision of law; and

“(B) in the case of selected personnel serving in circumstances similar to those in which personnel of the Central Intelligence Agency serve, comparable to those provided by the Director of Central Intelligence to personnel of the Central Intelligence Agency;

“(2) housing (including heat, light, and household equipment) without cost to such personnel, if the Director of the National Security Agency, on behalf of the Secretary of Defense determines that it would be in the public interest to provide such housing; and

“(3) special retirement accrual in the same manner provided in section 303 of the Central Intelligence Agency Retirement Act (50 U.S.C. 403 note) [50 U.S.C. 2001 et seq.] and in section 18 of the Central Intelligence Agency Act of 1949 [50 U.S.C. 403r].

“(c) The authority of the Director of the National Security Agency, on behalf of the Secretary of Defense, to make payments under subsections (a) and (b), and under contracts for leases entered into under subsection (a), is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

“(d) Members of the Armed Forces may not receive benefits under both subsection (b)(1) and title 37, United States Code, for the same purpose. The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.

“(e) Regulations issued pursuant to subsection (b)(1) shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

[Amended Pub. L. 102-496, title VIII, §803(b), Oct. 24, 1992, 106 Stat. 3253. Amendment by Pub. L. 102-496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as an Effective Date note under section 2001 of this title.]

[Amended Pub. L. 101-193, title V, §505(b), Nov. 30, 1989, 103 Stat. 1709.]

[Amended Pub. L. 99-335, title V, §507(a), June 6, 1986, 100 Stat. 628. Amendment by Pub. L. 99-335 effective

Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.]

[Amended Pub. L. 97-89, title VI, §601, Dec. 4, 1981, 95 Stat. 1154.]

[Added Pub. L. 96-450, title IV, §401(a)(1), Oct. 14, 1980, 94 Stat. 1977.]

“SEC. 10. (a) The Director of the National Security Agency shall arrange for, and shall prescribe regulations concerning, language and language-related training programs for military and civilian cryptologic personnel. In establishing programs under this section for language and language-related training, the Director—

“(1) may provide for the training and instruction to be furnished, including functional and geographic area specializations;

“(2) may arrange for training and instruction through other Government agencies and, in any case in which appropriate training or instruction is unavailable through Government facilities, through nongovernmental facilities that furnish training and instruction useful in the fields of language and foreign affairs;

“(3) may support programs that furnish necessary language and language-related skills, including, in any case in which appropriate programs are unavailable at Government facilities, support through contracts, grants, or cooperation with nongovernmental educational institutions; and

“(4) may obtain by appointment or contract the services of individuals to serve as language instructors, linguists, or special language project personnel.

“(b)(1) In order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary or other incentives to encourage civilian cryptologic personnel of the Agency to acquire or retain proficiency in foreign languages or special related abilities needed by the Agency.

“(2) In order to provide linguistic training and support for cryptologic personnel, the Director—

“(A) may pay all or part of the tuition and other expenses related to the training of personnel who are assigned or detailed for language and language-related training, orientation, or instruction; and

“(B) may pay benefits and allowances to civilian personnel in accordance with chapters 57 and 59 of title 5, United States Code, and to military personnel in accordance with chapter 7 of title 37, United States Code, and applicable provisions of title 10, United States Code, when such personnel are assigned to training at sites away from their designated duty station.

“(c)(1) To the extent not inconsistent, in the opinion of the Secretary of Defense, with the operation of military cryptologic reserve units and in order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director may establish a cryptologic linguist reserve. The cryptologic linguist reserve may consist of former or retired civilian or military cryptologic personnel of the National Security Agency and of other qualified individuals, as determined by the Director of the Agency. Each member of the cryptologic linguist reserve shall agree that, during any period of emergency (as determined by the Director), the member shall return to active civilian status with the National Security Agency and shall perform such linguistic or linguistic-related duties as the Director may assign.

“(2) In order to attract individuals to become members of the cryptologic linguist reserve, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary incentives to individuals eligible to become members of the reserve who agree to become members of the cryptologic linguist reserve and to acquire or retain proficiency in foreign languages or special related abilities.

“(3) In order to provide training and support for members of the cryptologic linguist reserve, the Director—

“(A) may pay all or part of the tuition and other expenses related to the training of individuals in the cryptologic linguist reserve who are assigned or detailed for language and language-related training, orientation, or instruction; and

“(B) may pay benefits and allowances in accordance with chapters 57 and 59 of title 5, United States Code, to individuals in the cryptologic linguist reserve who are assigned to training at sites away from their homes or regular places of business.

“(d)(1) The Director, before providing training under this section to any individual, may obtain an agreement with that individual that—

“(A) in the case of current employees, pertains to continuation of service of the employee, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code; and

“(B) in the case of individuals accepted for membership in the cryptologic linguist reserve, pertains to return to service when requested, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code.

“(2) The Director, under regulations prescribed under this section, may waive, in whole or in part, a right of recovery under an agreement made under this subsection if it is shown that the recovery would be against equity and good conscience or against the public interest.

“(e)(1) Subject to paragraph (2), the Director may provide to family members of military and civilian cryptologic personnel assigned to representational duties outside the United States, in anticipation of the assignment of such personnel outside the United States or while outside the United States, appropriate orientation and language training that is directly related to the assignment abroad.

“(2) Language training under paragraph (1) may not be provided to any individual through payment of the expenses of tuition or other cost of instruction at a non-Government educational institution unless appropriate instruction is not available at a Government facility.

“(f) The Director may waive the applicability of any provision of chapter 41 of title 5, United States Code, to any provision of this section if he finds that such waiver is important to the performance of cryptologic functions.

“(g) The authority of the Director to enter into contracts or to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

“(h) Regulations issued pursuant to this section shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

“(i) The Director of the National Security Agency, on behalf of the Secretary of Defense, may, without regard to section 4109(a)(2)(B) of title 5, United States Code, pay travel, transportation, storage, and subsistence expenses under chapter 57 of such title to civilian and military personnel of the Department of Defense who are assigned to duty outside the United States for a period of one year or longer which involves cryptologic training, language training, or related disciplines. [Added Pub. L. 96-450, title IV, §402(a)(1), Oct. 14, 1980, 94 Stat. 1978, and amended Pub. L. 97-89, title VI, §602, Dec. 4, 1981, 95 Stat. 1154.]

“SEC. 11. The Administrator of General Services, upon the application of the Director of the National Security Agency, may provide for the protection in accordance with section 3 of the Act of June 1, 1948 (40 U.S.C. 318b), of certain facilities (as designated by the Director of such Agency) which are under the administration and control of, or are used by, the National Se-

curity Agency in the same manner as if such facilities were property of the United States over which the United States has acquired exclusive or concurrent criminal jurisdiction. [Added Pub. L. 96-450, title IV, §402(a)(1), Oct. 14, 1980, 94 Stat. 1978.]

“SEC. 12. (a)(1) The Secretary of Defense (or his designee) may by regulation establish a personnel system for senior civilian cryptologic personnel in the National Security Agency to be known as the Senior Cryptologic Executive Service. The regulations establishing the Senior Cryptologic Executive Service shall—

“(A) meet the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service;

“(B) provide that positions in the Senior Cryptologic Executive Service meet requirements that are consistent with the provisions of section 3132(a)(2) of such title;

“(C) provide, without regard to section 2, rates of pay for the Senior Cryptologic Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of such title, and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

“(D) provide a performance appraisal system for the Senior Cryptologic Executive Service that conforms to the provisions of subchapter II of chapter 43 of such title;

“(E) provide for removal consistent with section 3592 of such title, and removal or suspension consistent with subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Senior Cryptologic Executive Service is entitled shall be held or decided pursuant to procedures established by regulations of the Secretary of Defense or his designee);

“(F) permit the payment of performance awards to members of the Senior Cryptologic Executive Service consistent with the provisions applicable to performance awards under section 5384 of such title;

“(G) provide that members of the Senior Cryptologic Executive Service may be granted sabbatical leaves consistent with the provisions of section 3396(c) of such title.[] and

“(H) provide for the recertification of members of the Senior Cryptologic Executive Service consistent with the provisions of section 3393a of such title.

“(2) Except as otherwise provided in subsection (a), the Secretary of Defense (or his designee) may—

“(A) make applicable to the Senior Cryptologic Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service; and

“(B) appoint, promote, and assign individuals to positions established within the Senior Cryptologic Executive Service without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service.

“(3) The President, based on the recommendations of the Secretary of Defense, may award ranks to members of the Senior Cryptologic Executive Service in a manner consistent with the provisions of section 4507 of title 5, United States Code.

“(4) Notwithstanding any other provision of this section, the Director of the National Security Agency may detail or assign any member of the Senior Cryptologic Executive Service to serve in a position outside the National Security Agency in which the member's expertise and experience may be of benefit to the National Security Agency or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the Senior Cryptologic Executive Service.

“(5) The Director of the National Security Agency shall each year submit to the Permanent Select Com-

mittee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, at the time the Budget is submitted by the President to the Congress for the next fiscal year, a report on executive personnel in the National Security Agency. The report shall include—

“(A) the total number of positions added to or deleted from the Senior Cryptologic Executive Service during the preceding fiscal year;

“(B) the number of executive personnel (including all members of the Senior Cryptologic Executive Service) being paid at each grade level and pay rate in effect at the end of the preceding fiscal year;

“(C) the number, distribution, and amount of awards paid to members of the Senior Cryptologic Executive Service during the preceding fiscal year; and

“(D) the number of individuals removed from the Senior Cryptologic Executive Service during the preceding fiscal year for less than fully successful performance.

“(b) The Secretary of Defense (or his designee) may by regulation establish a merit pay system for such employees of the National Security Agency as the Secretary of Defense (or his designee) considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5, United States Code.

“(c) Nothing in this section shall be construed to allow the aggregate amount payable to a member of the Senior Cryptologic Executive Service under this section during any fiscal year to exceed the annual rate payable for positions at level I of the Executive Schedule [5 U.S.C. 5312] in effect at the end of such year. [Added Pub. L. 97–89, title VI, §603, Dec. 4, 1981, 95 Stat. 1156.]

[Amended Pub. L. 101–194, title V, §506(c)(2), Nov. 30, 1989, 103 Stat. 1759. Amendment by Pub. L. 101–194 effective Jan. 1, 1991, see section 506(d) of Pub. L. 101–194, set out as an Effective Date of 1989 Amendment note under section 3151 of Title 5, Government Organization and Employees.]

“SEC. 13. (a) The Director of the National Security Agency may make grants to private individuals and institutions for the conduct of cryptologic research. An application for a grant under this section may not be approved unless the Director determines that the award of the grant would be clearly consistent with the national security.

“(b) The grant program established by subsection (a) shall be conducted in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) [31 U.S.C. 6301 et seq.] to the extent that such Act is consistent with and in accordance with section 6 of this Act.

“(c) The authority of the Director to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose. [Added Pub. L. 97–89, title VI, §603, Dec. 4, 1981, 95 Stat. 1156.]

“SEC. 14. Funds appropriated to an entity of the Federal Government other than an element of the Department of Defense that have been specifically appropriated for the purchase of cryptologic equipment, materials, or services with respect to which the National Security Agency has been designated as the central source of procurement for the Government shall remain available for a period of three fiscal years. [Added Pub. L. 97–89, title VI, §603, Dec. 4, 1981, 95 Stat. 1156.]

“SEC. 15. (a) No person may, except with the written permission of the Director of the National Security Agency, knowingly use the words ‘National Security Agency’, the initials ‘NSA’, the seal of the National Security Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the National Security Agency.

“(b) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an

act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought. [Added Pub. L. 97–89, title VI, §603, Dec. 4, 1981, 95 Stat. 1156.]

“SEC. 16. (a) The purpose of this section is to establish an undergraduate training program, which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Security Agency, including mathematics, computer science, engineering, and foreign languages.

“(b) The Secretary of Defense is authorized, in his discretion, to assign civilian employees of the National Security Agency as students at accredited professional, technical, and other institutions of higher learning for training at the undergraduate level in skills critical to effective performance of the mission of the Agency.

“(c) The National Security Agency may pay, directly or by reimbursement to employees, expenses incident to assignments under subsection (b), in any fiscal year only to the extent that appropriated funds are available for such purpose.

“(d)(1) To be eligible for assignment under subsection (b), an employee of the Agency must agree in writing—

“(A) to continue in the service of the Agency for the period of the assignment and to complete the educational course of training for which the employee is assigned;

“(B) to continue in the service of the Agency following completion of the assignment for a period of one-and-a-half years for each year of the assignment or part thereof;

“(C) to reimburse the United States for the total cost of education (excluding the employee’s pay and allowances) provided under this section to the employee if, prior to the employee’s completing the educational course of training for which the employee is assigned, the assignment or the employee’s employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily; and

“(D) to reimburse the United States if, after completing the educational course of training for which the employee is assigned, the employee’s employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily, prior to the employee’s completion of the service obligation period described in subparagraph (B), in an amount that bears the same ratio to the total cost of the education (excluding the employee’s pay and allowances) provided to the employee as the unserved portion of the service obligation period described in subparagraph (B) bears to the total period of the service obligation described in subparagraph (B).

“(2) Subject to paragraph (3), the obligation to reimburse the United States under an agreement described in paragraph (1), including interest due on such obligation, is for all purposes a debt owing the United States.

“(3)(A) A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if the final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).

“(B) The Secretary of Defense may release a person, in whole or in part, from the obligation to reimburse the United States under an agreement described in paragraph (1) when, in his discretion, the Secretary de-

termines that equity or the interests of the United States so require.

“(C) The Secretary of Defense shall permit an employee assigned under this section who, prior to commencing a second academic year of such assignment, voluntarily terminates the assignment or the employee’s employment with the Agency, to satisfy his obligation under an agreement described in paragraph (1) to reimburse the United States by reimbursement according to a schedule of monthly payments which results in completion of reimbursement by a date five years after the date of termination of the assignment or employment or earlier at the option of the employee.

“(e)(1) When an employee is assigned under this section to an institution, the Agency shall disclose to the institution to which the employee is assigned that the Agency employs the employee and that the Agency funds the employee’s education.

“(2) Agency efforts to recruit individuals at educational institutions for participation in the undergraduate training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.

“(f) Chapter 41 of title 5 and subsections (a) and (b) of section 3324 of title 31, United States Code, shall not apply with respect to this section.

“(g) The Secretary of Defense may issue such regulations as may be necessary to implement this section. [Added Pub. L. 99-569, title V, §505, Oct. 27, 1986, 100 Stat. 3200.]

“SEC. 17. [Repealed. Pub. L. 103-359, title VIII, §806(b)(2), Oct. 14, 1994, 108 Stat. 3442.]

“SEC. 18. (a) The Secretary of Defense may pay the expenses referred to in section 5742(b) of title 5, United States Code, in the case of any employee of the National Security Agency who dies while on a rotational tour of duty within the United States or while in transit to or from such tour of duty.

“(b) For the purposes of this section, the term ‘rotational tour of duty’, with respect to an employee, means a permanent change of station involving the transfer of the employee from the National Security Agency headquarters to another post of duty for a fixed period established by regulation to be followed at the end of such period by a permanent change of station involving a transfer of the employee back to such headquarters.” [Added Pub. L. 102-183, title IV, §405, Dec. 4, 1991, 105 Stat. 1267; amended Pub. L. 102-496, title III, §304(a), Oct. 24, 1992, 106 Stat. 3183.]

[References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.]

#### EXECUTIVE ORDER NO. 10483

Ex. Ord. No. 10483, Sept. 2, 1953, 18 F.R. 5379, as amended by Ex. Ord. No. 10598, Feb. 28, 1955, 20 F.R. 1237, which provided for an Operations Coordinating Board, was superseded by Ex. Ord. No. 10700, Feb. 25, 1957, formerly set out below.

#### EXECUTIVE ORDER NO. 10700

Ex. Ord. No. 10700, Feb. 25, 1957, 22 F.R. 1111, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. 10838, Sept. 16, 1959, 24 F.R. 7519, which provided for the Operations Coordinating Board, was revoked by Ex. Ord. No. 10920, Feb. 18, 1961, 26 F.R. 1463.

### § 402a. Coordination of counterintelligence activities

#### (a) Establishment of Counterintelligence Policy Board

There is established within the executive branch of Government a National Counter-

intelligence Policy Board (in this section referred to as the “Board”). The Board shall report to the President through the National Security Council.

#### (b) Function of Board

The Board shall serve as the principal mechanism for—

(1) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

(2) resolving conflicts, as directed by the President, which may arise between elements of the Government which carry out such activities.

#### (c) Coordination of counterintelligence matters with Federal Bureau of Investigation

(1) Except as provided in paragraph (3), the head of each department or agency within the executive branch shall ensure that—

(A) the Federal Bureau of Investigation is advised immediately of any information, regardless of its origin, which indicates that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power;

(B) following a report made pursuant to subparagraph (A), the Federal Bureau of Investigation is consulted with respect to all subsequent actions which may be undertaken by the department or agency concerned to determine the source of such loss or compromise; and

(C) where, after appropriate consultation with the department or agency concerned, the Federal Bureau of Investigation undertakes investigative activities to determine the source of the loss or compromise, the Federal Bureau of Investigation is given complete and timely access to the employees and records of the department or agency concerned for purposes of such investigative activities.

(2) Except as provided in paragraph (3), the Director of the Federal Bureau of Investigation shall ensure that espionage information obtained by the Federal Bureau of Investigation pertaining to the personnel, operations, or information of departments or agencies of the executive branch, is provided through appropriate channels to the department or agency concerned, and that such departments or agencies are consulted with respect to espionage investigations undertaken by the Federal Bureau of Investigation which involve the personnel, operations, or information of such department or agency after a report has been provided pursuant to paragraph (1)(A).

(3) Where essential to meet extraordinary circumstances affecting vital national security interests of the United States, the President may on a case-by-case basis waive the requirements of paragraph (1) or (2), as they apply to the head of a particular department or agency, or the Director of the Federal Bureau of Investigation. Such waiver shall be in writing and shall fully state the justification for such waiver. Within thirty days, the President shall notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that such waiver has been issued, and at that time or



as soon as national security considerations permit, provide these committees with a complete explanation of the circumstances which necessitated such waiver.

(4) The Director of the Federal Bureau of Investigation shall, in consultation with the Director of Central Intelligence and the Secretary of Defense, report annually, beginning on February 1, 1995, and continuing each year thereafter, to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives and, in accordance with applicable security procedures, the Committees on the Judiciary of the House of Representatives and the Senate with respect to compliance with paragraphs (1) and (2) during the previous calendar year.

(5) Nothing in this section may be construed to alter the existing jurisdictional arrangements between the Federal Bureau of Investigation and the Department of Defense with respect to investigations of persons subject to the Uniform Code of Military Justice, nor to impose additional reporting requirements upon the Department of Defense with respect to such investigations beyond those required by existing law and executive branch policy.

(6) As used in this section, the terms “foreign power” and “agent of a foreign power” have the same meanings as set forth in sections<sup>1</sup> 1801(a) and (b), respectively, of this title.

(Pub. L. 103-359, title VIII, §811, Oct. 14, 1994, 108 Stat. 3455.)

#### CODIFICATION

Section was enacted as part of the Counterintelligence and Security Enhancements Act of 1994 and also as part of the Intelligence Authorization Act for Fiscal Year 1995, and not as part of the National Security Act of 1947 which comprises this chapter.

### § 403. Central Intelligence Agency

#### (a) Establishment; Director

(1) There is established a Central Intelligence Agency.

(2) There shall be a Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall—

(A) serve as head of the United States intelligence community;

(B) act as the principal adviser to the President for intelligence matters related to the national security; and

(C) serve as head of the Central Intelligence Agency.

#### (b) Deputy Director

To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be a Deputy Director of Central Intelligence, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall act for, and exercise the powers of, the Director during the Director's absence or disability.

#### (c) Commissioned officers as Director or Deputy Director; powers and limitations; effect on commissioned status

(1) The Director or Deputy Director of Central Intelligence may be appointed from among the commissioned officers of the Armed Forces, or from civilian life, but at no time shall both positions be simultaneously occupied by commissioned officers of the Armed Forces, whether in an active or retired status.

(2) It is the sense of the Congress that under ordinary circumstances, it is desirable that either the Director or the Deputy Director be a commissioned officer of the Armed Forces or that either such appointee otherwise have, by training or experience, an appreciation of military intelligence activities and requirements.

(3)(A) A commissioned officer of the Armed Forces appointed pursuant to paragraph (2) or (3),<sup>1</sup> while serving in such position—

(i) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

(ii) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

(iii) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of which such officer is a member.

(B) Except as provided in clause (i) or (ii) of paragraph (A), the appointment of a commissioned officer of the Armed Forces pursuant to paragraph (2) or (3)<sup>1</sup> shall in no way affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade.

(C) A commissioned officer of the Armed Forces appointed pursuant to subsection (a) or (b) of this section, while serving in such position, shall continue to receive military pay and allowances (including retired pay) payable to a commissioned officer of the officer's grade and length of service for which the appropriate military department shall be reimbursed from funds available to the Director of Central Intelligence.

#### (d) Office of Director within Agency

The Office of the Director of Central Intelligence shall, for administrative purposes, be within the Central Intelligence Agency.

(July 26, 1947, ch. 343, title I, §102, 61 Stat. 497; Apr. 4, 1953, ch. 16, 67 Stat. 19; Oct. 24, 1992, Pub. L. 102-496, title VII, §704, 106 Stat. 3189.)

#### REFERENCES IN TEXT

This Act, referred to in subsec. (b), means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-496 designated existing provisions as par. (1), struck out “under the National

<sup>1</sup> So in original. Probably should be “section”.

<sup>1</sup> So in original. Probably should be “subsection (a) or (b)”.

Security Council” after “established”, struck out “with a Director of Central Intelligence who shall be the head thereof, and with a Deputy Director of Central Intelligence who shall act for, and exercise the powers of, the Director during his absence or disability” after “Agency”, struck out after first sentence “The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate, from among the commissioned officers of the armed services, whether in an active or retired status, or from among individuals in civilian life: *Provided, however,* That at no time shall the two positions of the Director and Deputy Director be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status.”, and added par. (2).

Subsecs. (b) to (f). Pub. L. 102-496, § 704(3), added subsecs. (b) to (d) and struck out former subsecs. (b) to (f) which related to, in subsec. (b), commissioned officers of the Armed Forces serving as Director or Deputy Director, powers and limitations, and effect on commissioned status, in subsec. (c), termination of employment of officers and employees and effect on right of subsequent employment, in subsec. (d), powers and duties of Agency, in subsec. (e), inspection of intelligence of other departments, and in subsec. (f), termination of National Intelligence Authority along with transfer of personnel, property, records, and unexpended funds.

1953—Subsecs. (a), (b). Act Apr. 4, 1953, provided for appointment of a Deputy Director of Central Intelligence and defined his duties and status.

#### SUPPORT FOR SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION

Pub. L. 103-178, title IV, § 401, Dec. 3, 1993, 107 Stat. 2037, provided that:

“(a) GENERAL AUTHORITY.—In recognition of the importance of science, mathematics, and engineering to the national security and in order to encourage students to pursue studies in science, mathematics, and engineering, the Director of Central Intelligence may carry out a program in fiscal years 1994 and 1995 to award cash prizes and visits to the Central Intelligence Agency (including the payment of costs associated with such visits) for students who participate in high school science fairs within the United States.

“(b) MERIT.—Awards made under subsection (a) shall be made solely on the basis of merit.

“(c) EQUITABLE REGIONAL REPRESENTATION.—The Director shall ensure that there is equitable regional representation with respect to the program carried out under subsection (a).

“(d) LIMITATION ON EXPENDITURES.—The Director may not expend more than \$5,000 for each of the fiscal years 1994 and 1995 to carry out this section.”

#### CENTRAL INTELLIGENCE AGENCY CONSOLIDATION PLAN

Pub. L. 102-183, title VI, § 601, Dec. 4, 1991, 105 Stat. 1269, provided that:

“(a) FUNDING LIMITATION.—Of the amount authorized by this Act [see Tables for classification] for the Central Intelligence Agency Program, not more than \$10,000,000 is authorized for costs associated with the land acquisition and related expenditures necessary to implement a plan for consolidation of Central Intelligence Agency facilities. None of such funds may be obligated to implement such plan until all of the conditions set forth in subsection (d) have been met and (except as provided in subsection (c)) a period of 60 days beginning on the date on which all of such conditions have been met has expired. Any certification or report required under that subsection shall be provided in writing to the intelligence committees and the appropriations committees. If any of the required certifications cannot be provided, then the Director of Central Intelligence shall reopen the planning process with respect to the consolidation plan to the extent required to address any procedures that were determined to be deficient.

“(b) ADDITIONAL FUNDING.—Pursuant to the procedures set forth in the joint explanatory statement of managers to accompany the conference report on the bill H.R. 2038 of the 102d Congress [Pub. L. 102-183], an amount not to exceed \$20,000,000 is authorized and may be made available if the Director determines that funds in addition to the amount specified in subsection (a) are required during fiscal year 1992 for costs associated with the land acquisition and related expenditures necessary to implement the consolidation plan.

“(c) LIMITED WAIVER OF 60-DAY REVIEW PERIOD.—The Director may spend not to exceed \$500,000 of the funds specified in subsection (a) for options and agreements to ensure the continued availability of property under consideration for the consolidation plan without regard to the 60-day period specified in subsection (a).

“(d) CONDITIONS.—The following conditions and certifications must be met before the funds specified in subsection (a) may be obligated:

“(1) The Director of Central Intelligence has certified—

“(A) that with respect to procedures governing land acquisition by the Central Intelligence Agency—

“(i) there are written procedures for such acquisition currently in effect;

“(ii) those procedures are consistent with land acquisition procedures of the General Services Administration; and

“(iii) the process used by the Central Intelligence Agency in developing the consolidation plan was in accordance with those written procedures; and

“(B) that with respect to contracts of the Agency for construction and for the acquisition of movable property, equipment, and services, the procedures of the Agency are consistent with procedures under the Federal Acquisition Regulation.

“(2) The Administrator of General Services has provided a written report stating that in the opinion of the Administrator (A) implementing the consolidation plan will result in cost savings to the United States Government, and (B) the consolidation plan will conform to applicable local governmental regulations.

“(3) The Director of the Office of Management and Budget has certified—

“(A) that the consolidation plan (and associated costs) have been reviewed by the Office of Management and Budget;

“(B) that the funding for such plan is consistent with the 1990 budget agreement; and

“(C) that funding for such plan has been approved by the Administration for fiscal year 1992.

“(4) The Inspector General of the Central Intelligence Agency has certified that corrective actions, if any, recommended as a result of the Inspector General's inquiry into the consolidation plan, and concurred in by the Director of Central Intelligence, will be implemented.

“(5) The Director of Central Intelligence has provided to the intelligence committees and appropriations committees a written report on the consolidation plan that includes—

“(A) a comprehensive site evaluation, including zoning, site engineering, and environmental requirements, logistics, physical and technical security, and communications compatibility;

“(B) a description of the anticipated effect of implementing the consolidation plan on personnel of the Central Intelligence Agency, including a discussion of the organizations and personnel that will be relocated and the rationale for such relocations and the Director's assurance that personnel are consulted and considered in the consolidation effort; and

“(C) the Director's assurances that the Director, in evaluating and approving the plan, has considered global changes and budget constraints that may have the effect of reducing Central Intel-

ligence Agency personnel requirements in the future.

“(e) DEFINITIONS.—For purposes of this section:

“(1) The term ‘intelligence committees’ means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

“(2) The term ‘appropriations committees’ means the Committees on Appropriations of the Senate and the House of Representatives.”

Similar provisions were contained in Pub. L. 102-172, title VIII, §8083A, Nov. 26, 1991, 105 Stat. 1191.

#### EQUAL EMPLOYMENT OPPORTUNITY PLAN

Pub. L. 100-453, title IV, §403, Sept. 29, 1988, 102 Stat. 1908, directed Director of Central Intelligence and Secretary of Defense, 90 days after Sept. 29, 1988, to submit to Congress a report setting forth an analysis of each equal employment opportunity group's representation in Central Intelligence Agency and National Security Agency respectively and proposing a plan for rectifying any underrepresentation of any such equal employment opportunity group by Sept. 30, 1991, and further directed submission of interim reports on Feb. 1, 1989, 1990, and 1991 concerning Central Intelligence Agency and National Security Agency respectively detailing efforts made, and progress realized, by each such agency in achieving objectives of each such plan, including, but not limited to, number of applications from, and hiring, promotion, and training of, members of each equal employment opportunity group.

#### STUDY OF INTELLIGENCE PERSONNEL SYSTEMS

Pub. L. 100-178, title VII, §701, Dec. 2, 1987, 101 Stat. 1016, provided for submission, no later than Jan. 20, 1989, to Congress by Director of Central Intelligence Agency, of classified objective study to consist of a comprehensive review and comparative analysis of all personnel management and compensation systems affecting civilian personnel of agencies and entities of intelligence community, accompanied by such recommendations for legislative, regulative or other changes as determined advisable.

#### COMPENSATION OF DIRECTOR AND DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE

Compensation of Director and Deputy Director, see sections 5313 and 5314 of Title 5, Government Organization and Employees.

#### CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Pub. L. 88-643, Oct. 13, 1964, 78 Stat. 1043, as amended by Pub. L. 90-539, Sept. 30, 1968, 82 Stat. 902; Pub. L. 91-185, Dec. 30, 1969, 83 Stat. 847; Pub. L. 91-626, §§1-6, Dec. 31, 1970, 84 Stat. 1872-1874; Pub. L. 93-31, May 8, 1973, 87 Stat. 65; Pub. L. 93-210, §1(a), Dec. 28, 1973, 87 Stat. 908; Pub. L. 94-361, title VIII, §801(b), July 14, 1976, 90 Stat. 929; Pub. L. 94-522, title I, §§101, 102, title II, §§201-213, Oct. 17, 1976, 90 Stat. 2467-2471; Ex. Ord. No. 12273, Jan. 16, 1981, 46 F.R. 5854; Ex. Ord. No. 12326, Sept. 30, 1981, 46 F.R. 48889; Pub. L. 97-269, title VI, §§602-611, Sept. 27, 1982, 96 Stat. 1145-1148, 1152-1153; Ex. Ord. No. 12443, Sept. 27, 1983, 48 F.R. 44751; Ex. Ord. No. 12485, July 13, 1984, 49 F.R. 28827; Pub. L. 98-618, title III, §302, Nov. 8, 1984, 98 Stat. 3300; Pub. L. 99-169, title VII, §702, Dec. 4, 1985, 99 Stat. 1008; Pub. L. 99-335, title V, §§501-506, June 6, 1986, 100 Stat. 622-624; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-569, title III, §302(a), Oct. 27, 1986, 100 Stat. 3192; Pub. L. 100-178, title IV, §§401(a), 402(a), (b)(1), (2), Dec. 2, 1987, 101 Stat. 1012-1014; Pub. L. 100-453, title III, §302(a), (b)(1), (c)(1), (d)(1), (2), title V, §502, Sept. 29, 1988, 102 Stat. 1906, 1907, 1909; Pub. L. 101-193, title III, §§302-304(a), 307(b), Nov. 30, 1989, 103 Stat. 1703, 1707; Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-88, title III, §§302-305(a), 306-307(b), Aug. 14, 1991, 105 Stat. 431-433; Pub. L. 102-183, title III, §§302(a)-(c), 303(a), 304-306(b), 307, 309(a), 310(a), Dec. 4, 1991, 105 Stat. 1262-1266; Pub.

L. 102-496, title III, §304(b), Oct. 24, 1992, 106 Stat. 3183, known as the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, was revised generally by Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3196. As so revised, Pub. L. 88-643, now known as the Central Intelligence Agency Retirement Act, has been transferred to chapter 38 (§2001 et seq.) of this title. All notes, Executive orders, and other provisions relating to this Act have been transferred to section 2001 of this title.

#### COMMUNICATION OF RESTRICTED DATA

Authorization for the communication of Restricted Data by the Central Intelligence Agency, see Ex. Ord. No. 10899, eff. Dec. 9, 1960, 25 F.R. 12729, set out as a note under section 2162 of Title 42, The Public Health and Welfare.

#### EXECUTIVE ORDER NO. 10656

Ex. Ord. No. 10656, Feb. 6, 1956, 21 F.R. 859, which established the President's Board of Consultants on Foreign Intelligence Activities, was revoked by Ex. Ord. No. 10938, May 4, 1961, 26 F.R. 3951, formerly set out below.

#### EXECUTIVE ORDER NO. 10938

Ex. Ord. No. 10938, May 4, 1961, 26 F.R. 3951, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 11460, Mar. 20, 1969, 34 F.R. 5535, formerly set out below.

#### EXECUTIVE ORDER NO. 11460

Ex. Ord. No. 11460, Mar. 20, 1969, 34 F.R. 5535, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 11984, May 4, 1977, 42 F.R. 23129, set out below.

#### EX. ORD. NO. 11984. ABOLITION OF PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

Ex. Ord. No. 11984, May 4, 1977, 42 F.R. 23129, provided: By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to abolish the President's Foreign Intelligence Advisory Board, Executive Order No. 11460 of March 20, 1969, is hereby revoked.

JIMMY CARTER.

#### EXECUTIVE ORDER NO. 12331

Ex. Ord. No. 12331, Oct. 20, 1981, 46 F.R. 51705, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 12537, Oct. 28, 1985, 50 F.R. 45083, formerly set out below.

#### EXECUTIVE ORDER NO. 12537

Ex. Ord. No. 12537, Oct. 28, 1985, 50 F.R. 45083, as amended by Ex. Ord. No. 12624, Jan. 6, 1988, 53 F.R. 489, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 12863, §3.3, Sept. 13, 1993, 58 F.R. 48441, set out as a note under section 401 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 411 of this title; title 5 section 2305; title 42 section 2162.

#### § 403-1. Repealed. Pub. L. 102-496, title VII, § 705(a)(1), Oct. 24, 1992, 106 Stat. 3190

Section, act July 26, 1947, ch. 343, title I, §102a, as added Dec. 9, 1983, Pub. L. 98-215, title IV, §403, 97 Stat. 1477, related to appointment of Director of the Intelligence Community Staff.

#### § 403-2. Intelligence Community contracting

The Director of Central Intelligence shall direct that elements of the Intelligence Commu-

nity, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, shall award contracts in a manner that would maximize the procurement of products in the United States. For purposes of this provision, the term “Intelligence Community” has the same meaning as set forth in paragraph 3.4(f) of Executive Order 12333, dated December 4, 1981, or successor orders.

(Pub. L. 102-183, title IV, § 403, Dec. 4, 1991, 105 Stat. 1267.)

#### REFERENCES IN TEXT

Executive Order 12333, referred to in text, is set out as a note under section 401 of this title.

#### CODIFICATION

Section was enacted as part of the authorization act cited as the credit to this section, and not as part of the National Security Act of 1947 which comprises this chapter.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior authorization act: Pub. L. 102-88, title IV, § 404, Aug. 14, 1991, 105 Stat. 434.

### § 403-2a. Construction of intelligence community facilities; Presidential authorization

(a) No project for the construction of any facility, or improvement to any facility, having an estimated Federal cost in excess of \$300,000, may be undertaken in any fiscal year unless specifically identified as a separate item in the President's annual fiscal year budget request or otherwise specifically authorized and appropriated if such facility or improvement would be used primarily by personnel of the intelligence community.

(b) As used in this section, the term “intelligence community” has the same meaning given that term in section 401a(4) of this title.

(Pub. L. 103-335, title VIII, § 8131, Sept. 30, 1994, 108 Stat. 2653.)

#### CODIFICATION

Section was enacted as part of the Department of Defense Appropriations Act, 1995, and not as part of the National Security Act of 1947 which comprises this chapter.

### § 403-2b. Limitation on construction of facilities to be used primarily by intelligence community

#### (a) In general

##### (1) In general

Except as provided in subsection (b) of this section, no project for the construction of any facility to be used primarily by personnel of any component of the intelligence community which has an estimated Federal cost in excess of \$750,000 may be undertaken in any fiscal year unless such project is specifically identified as a separate item in the President's annual fiscal year budget request and is specifically authorized by the Congress.

##### (2) Notification

In the case of a project for the construction of any facility to be used primarily by person-

nel of any component of the intelligence community which has an estimated Federal cost greater than \$500,000 but less than \$750,000, or where any improvement project to such a facility has an estimated Federal cost greater than \$500,000, the Director of Central Intelligence shall submit a notification to the intelligence committees specifically identifying such project.

#### (b) Exception

##### (1) In general

Notwithstanding subsection (a) of this section but subject to paragraphs (2) and (3), a project for the construction of a facility to be used primarily by personnel of any component of the intelligence community may be carried out if the Secretary of Defense and the Director of Central Intelligence jointly determine—

(A) that the project is vital to the national security or to the protection of health, safety, or the quality of the environment, and

(B) that the requirement for the project is so urgent that deferral of the project for inclusion in the next Act authorizing appropriations for the intelligence community would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

##### (2) Report

When a decision is made to carry out a construction project under this subsection, the Secretary of Defense and the Director of Central Intelligence jointly shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (A) the justification for the project and the current estimate of the cost of the project, (B) the justification for carrying out the project under this subsection, and (C) a statement of the source of the funds to be used to carry out the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees.

##### (3) Projects primarily for CIA

If a project referred to in paragraph (1) is primarily for the Central Intelligence Agency, the Director of Central Intelligence shall make the determination and submit the report required by paragraphs (1) and (2).

##### (4) Limitation

A project carried out under this subsection shall be carried out within the total amount of funds appropriated for intelligence and intelligence-related activities that have not been obligated.

#### (c) Application

This section shall not apply to any project which is subject to subsection (a)(1)(A) or (c) of section 601.

(Pub. L. 103-359, title VI, § 602, Oct. 14, 1994, 108 Stat. 3432.)

#### REFERENCES IN TEXT

Section 601, referred to in subsec. (c), means section 601 of Pub. L. 103-359, title VI, Oct. 14, 1994, 108 Stat. 3431, which is not classified to the Code.

## CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 1995, and not as part of the National Security Act of 1947 which comprises this chapter.

## DEFINITIONS

Section 604 of title VI of Pub. L. 103-359 provided that: “As used in this title [enacting this section and provisions set out as a note under section 403-3 of this title]:

“(1) INTELLIGENCE COMMITTEES.—The term ‘intelligence committees’ means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

“(2) INTELLIGENCE COMMUNITY.—The term ‘intelligence community’ has the same meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).”

### § 403-3. Responsibilities of Director of Central Intelligence

#### (a) Provision of intelligence

(1) Under the direction of the National Security Council, the Director of Central Intelligence shall be responsible for providing national intelligence—

(A) to the President;

(B) to the heads of departments and agencies of the executive branch;

(C) to the Chairman of the Joint Chiefs of Staff and senior military commanders; and

(D) where appropriate, to the Senate and House of Representatives and the committees thereof.

(2) Such national intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community.

#### (b) National Intelligence Council

(1)(A) There is established within the Office of the Director of Central Intelligence the National Intelligence Council (hereafter in this section referred to as the “Council”). The Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the Director of Central Intelligence.

(B) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

(2) The Council shall—

(A) produce national intelligence estimates for the Government, including, whenever the Council considers appropriate, alternative views held by elements of the intelligence community; and

(B) otherwise assist the Director in carrying out the responsibilities described in subsection (a) of this section.

(3) Within their respective areas of expertise and under the direction of the Director, the members of the Council shall constitute the sen-

ior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the Government.

(4) The Director shall make available to the Council such staff as may be necessary to permit the Council to carry out its responsibilities under this subsection and shall take appropriate measures to ensure that the Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

(5) The heads of elements within the intelligence community shall, as appropriate, furnish such support to the Council, including the preparation of intelligence analyses, as may be required by the Director.

#### (c) Head of intelligence community

In the Director's capacity as head of the intelligence community, the Director shall—

(1) develop and present to the President an annual budget for the National Foreign Intelligence Program of the United States;

(2) establish the requirements and priorities to govern the collection of national intelligence by elements of the intelligence community;

(3) promote and evaluate the utility of national intelligence to consumers within the Government;

(4) eliminate waste and unnecessary duplication within the intelligence community;

(5) protect intelligence sources and methods from unauthorized disclosure; and

(6) perform such other functions as the President or the National Security Council may direct.

#### (d) Head of Central Intelligence Agency

In the Director's capacity as head of the Central Intelligence Agency, the Director shall—

(1) collect intelligence through human sources and by other appropriate means, except that the Agency shall have no police, subpoena, or law enforcement powers or internal security functions;

(2) provide overall direction for the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other agencies of the Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that the risks to the United States and those involved in such collection are minimized;

(3) correlate and evaluate intelligence related to the national security and provide appropriate dissemination of such intelligence;

(4) perform such additional services as are of common concern to the elements of the intelligence community, which services the Director of Central Intelligence determines can be more efficiently accomplished centrally; and

(5) perform such other functions and duties related to intelligence affecting the national security as the President or the National Security Council may direct.

(July 26, 1947, ch. 343, title I, § 103, as added Oct. 24, 1992, Pub. L. 102-496, title VII, § 705(a)(3), 106 Stat. 3190; amended Dec. 3, 1993, Pub. L. 103-178, title V, § 502, 107 Stat. 2038.)

## PRIOR PROVISIONS

A prior section 103 of act July 26, 1947, was renumbered section 107 and is classified to section 404 of this title.

## AMENDMENTS

1993—Subsec. (d)(3). Pub. L. 103-178 substituted “provide” for “providing”.

## IDENTIFICATION OF CONSTITUENT COMPONENTS OF BASE INTELLIGENCE BUDGET

Pub. L. 103-359, title VI, §603, Oct. 14, 1994, 108 Stat. 3433, provided that: “The Director of Central Intelligence shall include the same level of budgetary detail for the Base Budget that is provided for Ongoing Initiatives and New Initiatives to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate in the congressional justification materials for the annual submission of the National Foreign Intelligence Program of each fiscal year.”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401a, 403-5, 403f, 403g, 411, 2011 of this title.

**§ 403-4. Authorities of Director of Central Intelligence****(a) Access to intelligence**

To the extent recommended by the National Security Council and approved by the President, the Director of Central Intelligence shall have access to all intelligence related to the national security which is collected by any department, agency, or other entity of the United States.

**(b) Approval of budgets**

The Director of Central Intelligence shall provide guidance to elements of the intelligence community for the preparation of their annual budgets and shall approve such budgets before their incorporation in the National Foreign Intelligence Program.

**(c) Role of DCI in reprogramming**

No funds made available under the National Foreign Intelligence Program may be reprogrammed by any element of the intelligence community without the prior approval of the Director of Central Intelligence except in accordance with procedures issued by the Director.

**(d) Transfer of funds or personnel within National Foreign Intelligence Program**

(1) In addition to any other authorities available under law for such purposes, the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, may transfer funds appropriated for a program within the National Foreign Intelligence Program to another such program and, in accordance with procedures to be developed by the Director and the heads of affected departments and agencies, may transfer personnel authorized for an element of the intelligence community to another such element for periods up to a year.

(2) A transfer of funds or personnel may be made under this subsection only if—

(A) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

(B) the need for funds or personnel for such activity is based on unforeseen requirements;

(C) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the Central Intelligence Agency;

(D) the transfer does not involve a transfer of funds or personnel from the Federal Bureau of Investigation; and

(E) the Secretary or head of the department which contains the affected element or elements of the intelligence community does not object to such transfer.

(3) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

(4) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of October 24, 1992.

(5) The Director shall promptly submit to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives and, in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and House of Representatives, a report on any transfer of personnel made pursuant to this subsection. The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

**(e) Coordination with foreign governments**

Under the direction of the National Security Council and in a manner consistent with section 3927 of title 22, the Director shall coordinate the relationships between elements of the intelligence community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

**(f) Use of personnel**

The Director shall, in coordination with the heads of departments and agencies with elements in the intelligence community, institute policies and programs within the intelligence community—

(1) to provide for the rotation of personnel between the elements of the intelligence community, where appropriate, and to make such rotated service a factor to be considered for promotion to senior positions; and

(2) to consolidate, wherever possible, personnel, administrative, and security programs to reduce the overall costs of these activities within the intelligence community.

**(g) Termination of employment of CIA employees**

Notwithstanding the provisions of any other law, the Director may, in the Director's discretion, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director shall deem such termination necessary or advisable in the interests of the United States. Any such termination shall not affect the right of the officer or employee terminated to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the Office of Personnel Management.

(July 26, 1947, ch. 343, title I, § 104, as added Oct. 24, 1992, Pub. L. 102-496, title VII, § 705(a)(3), 106 Stat. 3192.)

**PRIOR PROVISIONS**

A prior section 104 of act July 26, 1947, was renumbered section 108 and is classified to section 404a of this title.

**CHANGE OF NAME**

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

**SEPARATION PAY PROGRAM FOR VOLUNTARY SEPARATION FROM SERVICE**

Pub. L. 103-36, § 2, June 8, 1993, 107 Stat. 104, as amended by Pub. L. 103-226, § 8(b), Mar. 30, 1994, 108 Stat. 118, provided that:

“(a) DEFINITIONS.—For purposes of this section—

“(1) the term ‘Director’ means the Director of Central Intelligence; and

“(2) the term ‘employee’ means an employee of the Central Intelligence Agency, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months, except that such term does not include—

“(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government; or

“(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

“(b) ESTABLISHMENT OF PROGRAM.—In order to avoid or minimize the need for involuntary separations due to downsizing, reorganization, transfer of function, or other similar action, the Director may establish a program under which employees may be offered separation pay to separate from service voluntarily (whether by retirement or resignation). An employee who receives separation pay under such program may not be reemployed by the Central Intelligence Agency for the 12-month period beginning on the effective date of the employee's separation. An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 [Mar. 30, 1994] and accepts employment with the Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the Central Intelligence Agency. If the employment is with an Executive agency (as defined by section 105 of title 5, United States Code), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with an entity in

the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

“(c) BAR ON CERTAIN EMPLOYMENT.—

“(1) BAR.—An employee may not be separated from service under this section unless the employee agrees that the employee will not—

“(A) act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to the Central Intelligence Agency; or

“(B) participate in any manner in the award, modification, extension, or performance of any contract for property or services with the Central Intelligence Agency,

during the 12-month period beginning on the effective date of the employee's separation from service.

“(2) PENALTY.—An employee who violates an agreement under this subsection shall be liable to the United States in the amount of the separation pay paid to the employee pursuant to this section times the proportion of the 12-month period during which the employee was in violation of the agreement.

“(d) LIMITATIONS.—Under this program, separation pay may be offered only—

“(1) with the prior approval of the Director; and

“(2) to employees within such occupational groups or geographic locations, or subject to such other similar limitations or conditions, as the Director may require.

“(e) AMOUNT AND TREATMENT FOR OTHER PURPOSES.—Such separation pay—

“(1) shall be paid in a lump sum;

“(2) shall be equal to the lesser of—

“(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or

“(B) \$25,000;

“(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

“(4) shall not be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595 of title 5, United States Code, based on any other separation.

“(f) TERMINATION.—No amount shall be payable under this section based on any separation occurring after September 30, 1997.

“(g) REGULATIONS.—The Director shall prescribe such regulations as may be necessary to carry out this section.

“(h) REPORTING REQUIREMENTS.—

“(1) OFFERING NOTIFICATION.—The Director may not make an offering of voluntary separation pay pursuant to this section until 30 days after submitting to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report describing the occupational groups or geographic locations, or other similar limitations or conditions, required by the Director under subsection (d).

“(2) ANNUAL REPORT.—At the end of each of the fiscal years 1993 through 1997, the Director shall submit to the President and the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report on the effectiveness and costs of carrying out this section.”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403-5, 403f, 411 of this title.

**§ 403-5. Responsibilities of Secretary of Defense pertaining to National Foreign Intelligence Program**

**(a) In general**

The Secretary of Defense shall—

(1) ensure that the budgets of the elements of the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense, including the needs of the chairman<sup>1</sup> of the Joint Chiefs of Staff and the commanders of the unified and specified commands and, wherever such elements are performing governmentwide functions, the needs of other departments and agencies;

(2) ensure appropriate implementation of the policies and resource decisions of the Director of Central Intelligence by elements of the Department of Defense within the National Foreign Intelligence Program;

(3) ensure that the tactical intelligence activities of the Department of Defense complement and are compatible with intelligence activities under the National Foreign Intelligence Program;

(4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces;

(5) eliminate waste and unnecessary duplication among the intelligence activities of the Department of Defense; and

(6) ensure that intelligence activities of the Department of Defense are conducted jointly where appropriate.

**(b) Responsibility for performance of specific functions**

Consistent with sections 403-3 and 403-4 of this title, the Secretary of Defense shall ensure—

(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

(2) through the Central Imagery Office (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization within the Department of Defense for carrying out tasking of imagery collection, for the coordination of imagery processing and exploitation activities, and for ensuring the dissemination of imagery in a timely manner to authorized recipients;

(3) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified or-

ganization for the research and development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community;

(4) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified system within the Department of Defense for the production of timely, objective military and military-related intelligence, based upon all sources available to the intelligence community, and shall ensure the appropriate dissemination of such intelligence to authorized recipients;

(5) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of Department of Defense human intelligence activities, including defense attaches; and

(6) that the military departments maintain sufficient capabilities to collect and produce intelligence to meet—

(A) the requirements of the Director of Central Intelligence;

(B) the requirements of the Secretary of Defense or the Chairman of the Joint Chiefs of Staff;

(C) the requirements of the unified and specified combatant commands and of joint operations; and

(D) the specialized requirements of the military departments for intelligence necessary to support tactical commanders, military planners, the research and development process, the acquisition of military equipment, and training and doctrine.

**(c) Use of elements of Department of Defense**

The Secretary of Defense, in carrying out the functions described in this section, may use such elements of the Department of Defense as may be appropriate for the execution of those functions, in addition to, or in lieu of, the elements identified in this section.

(July 26, 1947, ch. 343, title I, §105, as added Oct. 24, 1992, Pub. L. 102-496, title VII, §706(a), 106 Stat. 3194; amended Oct. 14, 1994, Pub. L. 103-359, title V, §501(a)(2), 108 Stat. 3428.)

## AMENDMENTS

1994—Subsec. (b)(2). Pub. L. 103-359 substituted “the Central Imagery Office” for “a central imagery authority”.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 411 of this title.

**§ 403-6. Administrative provisions pertaining to defense elements within intelligence community**

**(a) Consultations with regard to certain appointments**

The Secretary of Defense shall undertake appropriate consultations with the Director of Central Intelligence before the appointment of any individual as head of the National Security Agency, the National Reconnaissance Office, or the Defense Intelligence Agency.

<sup>1</sup> So in original. Probably should be capitalized.



**(b) Appointment of head of Central Imagery Office**

The Secretary shall appoint, upon the recommendation of the Director, the head of the Central Imagery Office within the Department of Defense.

(July 26, 1947, ch. 343, title I, § 106, as added Oct. 24, 1992, Pub. L. 102-496, title VII, § 706(a), 106 Stat. 3195; amended Oct. 14, 1994, Pub. L. 103-359, title V, § 501(a)(3), 108 Stat. 3428.)

**AMENDMENTS**

1994—Subsec. (b), Pub. L. 103-359 substituted “Central Imagery Office” for “central imagery authority” in heading and text.

**§ 403a. Definitions relating to Central Intelligence Agency**

When used in sections 403a to 403s of this title, the term—

(a) “Agency” means the Central Intelligence Agency;

(b) “Director” means the Director of Central Intelligence;

(c) “Government agency” means any executive department, commission, council, independent establishment, corporation wholly or partly owned by the United States which is an instrumentality of the United States, board, bureau, division, service, office, officer, authority, administration, or other establishment, in the executive branch of the Government.

(June 20, 1949, ch. 227, § 1, 63 Stat. 208; Sept. 6, 1960, Pub. L. 86-707, title V, § 511(a)(3), (c)(1), 74 Stat. 800, 801.)

**CODIFICATION**

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

**AMENDMENTS**

1960—Subsec. (c), Pub. L. 86-707, § 511(c)(1), substituted “Government.” for “Government; and”.

Subsec. (d), Pub. L. 86-707, § 511(a)(3), repealed subsec. (d) which defined “continental United States”. See section 5921 of Title 5, Government Organization and Employees.

**SHORT TITLE**

Act June 20, 1949, ch. 227, § 10, formerly § 12, 63 Stat. 212; renumbered § 10, July 7, 1958, Pub. L. 85-507, § 21(b)(2), 72 Stat. 337, provided that: “This Act [enacting section 403a et seq. of this title] may be cited as the ‘Central Intelligence Agency Act of 1949’.”

**SEPARABILITY**

Act June 20, 1949, § 9, formerly § 11, 63 Stat. 212; renumbered § 9, July 7, 1958, Pub. L. 85-507, § 21(b)(2), 72 Stat. 337, provided that: “If any provision of this Act [enacting sections 403a et seq. of this title], or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.”

**ACT REFERRED TO IN OTHER SECTIONS**

The Central Intelligence Agency Act of 1949 is referred to in title 5 sections 2305, 5373.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 403e, 403f of this title.

**§ 403b. Seal of office of Central Intelligence Agency**

The Director of Central Intelligence shall cause a seal of office to be made for the Central Intelligence Agency, of such design as the President shall approve, and judicial notice shall be taken thereof.

(June 20, 1949, ch. 227, § 2, 63 Stat. 208.)

**CODIFICATION**

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 403a, 403e, 403f of this title.

**§ 403c. Procurement authority of Central Intelligence Agency****(a) Purchases and contracts for supplies and services**

In the performance of its functions the Central Intelligence Agency is authorized to exercise the authorities contained in sections 2304(a)(1) to (6), (10), (12), (15), (17), and sections 2305(a) to (c), 2306, 2307, 2308, 2309, 2312, and 2313 of title 10.<sup>1</sup>

**(b) “Agency head” defined**

In the exercise of the authorities granted in subsection (a) of this section, the term “Agency head” shall mean the Director, the Deputy Director, or the Executive of the Agency.

**(c) Classes of purchases and contracts; finality of decision; powers delegable**

The determinations and decisions provided in subsection (a) of this section to be made by the Agency head may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final. Except as provided in subsection (d) of this section, the Agency head is authorized to delegate his powers provided in this section, including the making of such determinations and decisions, in his discretion and subject to his direction, to any other officer or officers or officials of the Agency.

**(d) Powers not delegable; written findings**

The power of the Agency head to make the determinations or decisions specified in paragraphs (12) and (15) of section 2304(a) and section 2307(a) of title 10<sup>1</sup> shall not be delegable. Each determination or decision required by paragraphs (12) and (15) of section 2304(a), by sections 2306 and 2313, or by section 2307(a) of title 10,<sup>1</sup> shall be based upon written findings made by the official making such determinations, which findings shall be final and shall be available within the Agency for a period of at least six years following the date of the determination.

**(e) Automatic data processing equipment and services**

Notwithstanding subsection (e) of section 759 of title 40, the provisions of section 759 of title 40 relating to the procurement of automatic

<sup>1</sup> See Codification note below.

data processing equipment or services shall not apply with respect to such procurement by the Central Intelligence Agency.

(June 20, 1949, ch. 227, § 3, 63 Stat. 208; Sept. 27, 1982, Pub. L. 97-269, title V, § 502(a), 96 Stat. 1145.)

#### CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

In subsecs. (a) and (d), references to the appropriate sections of title 10 were substituted for references to sections 2(c)(1) to (6), (10), (12), (15), (17), 3, 4, 5, 6, and 10 of the Armed Services Procurement Act of 1947 (Public Law 413, 80th Congress), on authority of section 49(b) of act Aug. 10, 1956, ch. 1041, 70A Stat. 640, section 1 of which enacted Title 10, Armed Forces. Prior to the enactment of Title 10, sections 2 to 6 and 10 of the Armed Services Procurement Act of 1947 were classified to sections 151 to 155 and 159 of Title 41, Public Contracts. Cited sections of the Act were restated in sections of Title 10 as follows:

<i>Act</i>	<i>Title 10</i>
2(c) .....	2304(a)
3 .....	2305(a)-(c)
4 .....	2306, 2313
5 .....	2307
5(a) .....	2307(a)
6 .....	2312
10 .....	2308, 2309

Sections 2304 and 2305 of title 10 were amended generally by Pub. L. 98-369, and as so amended contain provisions differing from those referred to in subsecs. (a) and (d). Section 2308 of title 10 was repealed by Pub. L. 103-355, title I, § 1503(b)(1), Oct. 13, 1994, 108 Stat. 3297. For similar provisions, see section 2311 of title 10.

#### AMENDMENTS

1982—Subsec. (e). Pub. L. 97-269 added subsec. (e).

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-269 effective Sept. 27, 1982, see section 703 of Pub. L. 97-269 set out as an Effective Date note under section 202 of Title 10, Armed Forces.

#### PROCUREMENT OF AUTOMATIC DATA PROCESSING EQUIPMENT OR SERVICES; CONTRACTS MADE BEFORE SEPTEMBER 27, 1982

Section 502(b) of Pub. L. 97-269 provided that: “Subsection (e) of section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c(e)), as added by subsection (a) of this section, does not apply to a contract made before the date of the enactment of this Act [Sept. 27, 1982].”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

#### § 403d. Repealed. Pub. L. 85-507, § 21(b)(2), July 7, 1958, 72 Stat. 337

Section, act June 20, 1949, ch. 227, § 4, 63 Stat. 208, related to education and training of officers and employees. See section 4101 et seq. of Title 5, Government Organization and Employees.

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

#### § 403e. Central Intelligence Agency personnel; allowances and benefits

##### (a) Travel, allowances, and related expenses for officers and employees assigned to duty stations outside United States

Under such regulations as the Director may prescribe, the Agency, with respect to its officers and employees assigned to duty stations outside the several States of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia, shall—

(1)(A) pay the travel expenses of officers and employees of the Agency, including expenses incurred while traveling pursuant to authorized home leave;

(B) pay the travel expenses of members of the family of an officer or employee of the Agency when proceeding to or returning from his post of duty; accompanying him on authorized home leave; or otherwise traveling in accordance with authority granted pursuant to the terms of sections 403a to 403s of this title or any other Act;

(C) pay the cost of transporting the furniture and household and personal effects of an officer or employee of the Agency to his successive posts of duty and, on the termination of his services, to his residence at time of appointment or to a point not more distant, or, upon retirement, to the place where he will reside;

(D) pay the cost of packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of an officer or employee of the Agency, when he is absent from his post of assignment under orders, or when he is assigned to a post to which he cannot take or at which he is unable to use such furniture and household and personal effects, or when it is in the public interest or more economical to authorize storage; but in no instance shall the weight or volume of the effects stored together with the weight or volume of the effects transported exceed the maximum limitations fixed by regulations, when not otherwise fixed by law;

(E) pay the cost of packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of an officer or employee of the Agency in connection with assignment or transfer to a new post, from the date of his departure from his last post or from the date of his departure, from his place of residence in the case of a new officer or employee and for not to exceed three months after arrival at the new post, or until the establishment of residence quarters, whichever shall be shorter; and in connection with separation of an officer or employee of the Agency, the cost of packing and unpacking, transporting to and from a place of storage, and storing for a period not to exceed three months, his furniture and household and personal effects; but in no instance shall the weight or volume of the effects stored together with the weight or volume of the effects transported exceed the max-

imum limitations fixed by regulations, when not otherwise fixed by law.<sup>1</sup>

(F) pay the travel expenses and transportation costs incident to the removal of the members of the family of an officer or employee of the Agency and his furniture and household and personal effects, including automobiles, from a post at which, because of the prevalence of disturbed conditions, there is imminent danger to life and property, and the return of such persons, furniture, and effects to such post upon the cessation of such conditions; or to such other post as may in the meantime have become the post to which such officer or employee has been assigned.

(2) Charge expenses in connection with travel of personnel, their dependents, and transportation of their household goods and personal effects, involving a change of permanent station, to the appropriation for the fiscal year current when any part of either the travel or transportation pertaining to the transfer begins pursuant to previously issued travel and transfer orders, notwithstanding the fact that such travel or transportation may not all be effected during such fiscal year, or the travel and transfer orders may have been issued during the prior fiscal year.

(3)(A) Order to any of the several States of the United States of America (including the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States) on leave of absence each officer or employee of the Agency who was a resident of the United States (as described above) at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter.

(B) While in the United States (as described in paragraph (3)(A) of this subsection)<sup>2</sup> on leave, the service of any officer or employee shall be available for work or duties in the Agency or elsewhere as the Director may prescribe; and the time of such work or duty shall not be counted as leave.

(C) Where an officer or employee on leave returns to the United States (as described in paragraph (3)(A) of this subsection),<sup>2</sup> leave of absence granted shall be exclusive of the time actually and necessarily occupied in going to and from the United States (as so described) and such time as may be necessarily occupied in awaiting transportation.

(4) Notwithstanding the provisions of any other law, transport for or on behalf of an officer or employee of the Agency, a privately owned motor vehicle in any case in which it shall be determined that water, rail, or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination, and pay the costs of such transportation. Not more than one motor vehicle of any officer or employee of the Agency may be transported under authority of this paragraph during any four-year period, except that, as a replacement for such motor vehicle, one additional motor vehicle of any such officer or em-

ployee may be so transported during such period upon approval, in advance, by the Director and upon a determination, in advance, by the Director that such replacement is necessary for reasons beyond the control of the officer or employee and is in the interest of the Government. After the expiration of a period of four years following the date of transportation under authority of this paragraph of a privately owned motor vehicle of any officer or employee who has remained in continuous service outside the several States of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia, during such period, the transportation of a replacement for such motor vehicle for such officer or employee may be authorized by the Director in accordance with this paragraph.

(5)(A) In the event of illness or injury requiring the hospitalization of an officer or full time employee of the Agency incurred while on assignment abroad, in a locality where there does not exist a suitable hospital or clinic, pay the travel expenses of such officer or employee by whatever means the Director deems appropriate and without regard to the Standardized Government Travel Regulations and section 5731 of title 5, to the nearest locality where a suitable hospital or clinic exists and on the recovery of such officer or employee pay for the travel expenses of the return to the post of duty of such officer or employee. If the officer or employee is too ill to travel unattended, the Director may also pay the travel expenses of an attendant;

(B) Establish a first-aid station and provide for the services of a nurse at a post at which, in the opinion of the Director, sufficient personnel is employed to warrant such a station: *Provided*, That, in the opinion of the Director, it is not feasible to utilize an existing facility;

(C) In the event of illness or injury requiring hospitalization of an officer or full time employee of the Agency incurred in the line of duty while such person is assigned abroad, pay for the cost of the treatment of such illness or injury at a suitable hospital or clinic;

(D) Provide for the periodic physical examination of officers and employees of the Agency and for the cost of administering inoculation or vaccinations to such officers or employees.

(6) Pay the costs of preparing and transporting the remains of an officer or employee of the Agency or a member of his family who may die while in travel status or abroad, to his home or official station, or to such other place as the Director may determine to be the appropriate place of interment, provided that in no case shall the expense payable be greater than the amount which would have been payable had the destination been the home or official station.

(7) Pay the costs of travel of new appointees and their dependents, and the transportation of their household goods and personal effects, from places of actual residence in foreign countries at time of appointment to places of employment and return to their actual residences at the time of appointment or a point

<sup>1</sup> So in original. The period probably should be a semicolon.

<sup>2</sup> See Codification note below.

not more distant: *Provided*, That such appointees agree in writing to remain with the United States Government for a period of not less than twelve months from the time of appointment.

Violation of such agreement for personal convenience of an employee or because of separation for misconduct will bar such return payments and, if determined by the Director or his designee to be in the best interests of the United States, any money expended by the United States on account of such travel and transportation shall be considered as a debt due by the individual concerned to the United States.

**(b) Allowances and benefits comparable to those paid members of Foreign Service; special requirements; persons detailed or assigned from other agencies; regulations**

(1) The Director may pay to officers and employees of the Agency, and to persons detailed or assigned to the Agency from other agencies of the Government or from the Armed Forces, allowances and benefits comparable to the allowances and benefits authorized to be paid to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) or any other provision of law.

(2) The Director may pay allowances and benefits related to officially authorized travel, personnel and physical security activities, operational activities, and cover-related activities (whether or not such allowances and benefits are otherwise authorized under this section or any other provision of law) when payment of such allowances and benefits is necessary to meet the special requirements of work related to such activities. Payment of allowances and benefits under this paragraph shall be in accordance with regulations prescribed by the Director. Rates for allowances and benefits under this paragraph may not be set at rates in excess of those authorized by section 5724 and 5724a of title 5 when reimbursement is provided for relocation attributable, in whole or in part, to relocation within the United States.

(3) Notwithstanding any other provision of this section or any other provision of law relating to the officially authorized travel of Government employees, the Director, in order to reflect Agency requirements not taken into account in the formulation of Government-wide travel procedures, may by regulation—

(A) authorize the travel of officers and employees of the Agency, and of persons detailed or assigned to the Agency from other agencies of the Government or from the Armed Forces who are engaged in the performance of intelligence functions, and

(B) provide for payment for such travel, in classes of cases, as determined by the Director, in which such travel is important to the performance of intelligence functions.

(4) Members of the Armed Forces may not receive benefits under both this section and title 37 for the same purpose. The Director and Secretary of Defense shall prescribe joint regulations to carry out the preceding sentence.

(5) Regulations issued pursuant to this subsection shall be submitted to the Permanent Se-

lect Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

(June 20, 1949, ch. 227, §4, formerly §5, 63 Stat. 209; renumbered §4, July 7, 1958, Pub. L. 85-507, §21(b)(2), 72 Stat. 337; amended Sept. 6, 1960, Pub. L. 86-707, title III, §§301(b), 323, title V, §511(a)(3), (c)(2)-(5), 74 Stat. 795, 798, 800, 801; Dec. 4, 1981, Pub. L. 97-89, title V, §501, 95 Stat. 1152; Oct. 14, 1994, Pub. L. 103-359, title IV, §401, 108 Stat. 3427.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (b)(1), is Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071, as amended. Chapter 9 of title I of the Foreign Service Act of 1980 is classified generally to subchapter IX (§4081 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

CODIFICATION

In subsec. (a)(3)(B), (C), “this subsection” substituted for “this section” as the probable intent of Congress in view of the designation of the existing provisions of this section as subsec. (a) and the addition of subsec. (b) by Pub. L. 97-89, title V, §501, Dec. 4, 1981, 95 Stat. 1152.

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1994—Subsec. (a)(5)(A). Pub. L. 103-359, §401(1)(A)-(D), struck out “, not the result of vicious habits, intemperance, or misconduct on his part,” after “the Agency” and substituted “the Director deems” for “he shall deem”, “section 5731 of title 5” for “section 10 of the Act of March 3, 1933 (47 Stat. 1516; 5 U.S.C. 73b)”, and “the recovery of such officer or employee” for “his recovery”.

Pub. L. 103-359, §401(1)(E), which directed the substitution of “the return to the post of duty of such officer or employee” for “his return to his post”, was executed by making the substitution for “his return to his post of duty” to reflect the probable intent of Congress.

Subsec. (a)(5)(B). Pub. L. 103-359, §401(2), substituted “the opinion of the Director” for “his opinion” in two places.

Subsec. (a)(5)(C). Pub. L. 103-359, §401(3), struck out “, not the result of vicious habits, intemperance, or misconduct on his part,” after “the Agency”.

1981—Pub. L. 97-89 designated existing provisions as subsec. (a) and added subsec. (b).

1960—Pub. L. 86-707, §323(a), substituted “duty stations outside the several States of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia” for “permanent-duty stations outside the continental United States, its territories, and possessions” in opening provisions, and struck out subsec. (a) designation.

Par. (1)(A). Pub. L. 86-707, §511(c)(2), substituted “pursuant to authorized home leave” for “pursuant to orders issued by the Director in accordance with the provisions of subsection (a)(3) of this section with regard to the granting of home leave”.

Par. (1)(D). Pub. L. 86-707, §301(b), authorized payment of cost of packing and unpacking and transporting to and from a place of storage, extended authority to pay storage costs for an officer or employee assigned to a post to which he cannot take or at which he is unable to use his furniture and household personal effects by striking out provisions which restricted such payment only to cases where an emergency exists, empow-

ered Director to pay storage costs when it is in the public interest or more economical to authorize storage, and limited weight or volume of effects stored or weight or volume of effects transported to not more than maximum limitations fixed by regulations, when not otherwise fixed by law.

Par. (1)(E). Pub. L. 86-707, § 301(b), authorized payment of cost of packing and unpacking and transporting to and from a place of storage, permitted payment from date of departure from officer's or employee's last post or from date of departure from place of residence in the case of a new officer or employee, empowered Director to pay storage costs in connection with separation of an officer or employee from the Agency, and limited weight or volume of effects stored or weight or volume of effects transported to not more than maximum limitations fixed by regulations, when not otherwise fixed by law.

Par. (3)(A). Pub. L. 86-707, § 511(c)(3), substituted "to any of the several States of the United States of America (including the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States) on leave of absence each officer or employee of the Agency who was a resident of the United States (as described above) at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter" for "to the United States or its Territories and possessions on leave provided for in sections 30-30b of Title 5 [former Title 5, Executive Departments and Government Officers and Employees], or as such sections may hereafter be amended, every officer and employee of the agency who was a resident of the United States or its Territories and possessions at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter: Provided, That such officer or employee has accrued to his credit at the time of such order, annual leave sufficient to carry him in a pay status while in the United States for at least a thirty-day period".

Par. (3)(B). Pub. L. 86-707, § 511(c)(4), substituted "United States (as described in paragraph (3)(A) of this section) on leave, the service of any officer or employee shall be available for work or duties in the Agency or elsewhere as the Director may prescribe" for "continental United States on leave, the service of any officer or employee shall not be available for work or duties except in the agency or for training or for reorientation for work".

Par. (3)(C). Pub. L. 86-707, § 511(c)(5), substituted "returns to the United States (as described in paragraph (3)(A) of this section)" for "returns to the United States or its Territories and possessions", and "from the United States (as so described)" for "from the United States or its Territories and possessions".

Par. (4). Pub. L. 86-707, § 323(b), limited transportation of motor vehicles to one for any officer or employee during any four-year period, and empowered Director to approve transportation of one additional motor vehicle for replacement either during the four-year period or after expiration of four years following date of transportation of a motor vehicle of any officer or employee who has remained in continuous service outside the several States, excluding Alaska and Hawaii, but including the District of Columbia, for such period.

Pub. L. 86-707, § 511(a)(3), repealed subsec. (b) which authorized Director to grant allowances in accordance with provisions of section 1131(1), (2) of Title 22, Foreign Relations and Intercourse. See pars. (1)(D) and (1)(E) of this section.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-89 effective Oct. 1, 1981, see section 806 of Pub. L. 97-89, set out as an Effective Date note under section 1601 of Title 10, Armed Forces.

#### CLARIFICATION OF TERMS APPLIED TO FURNITURE, HOUSEHOLD GOODS, AND PERSONAL EFFECTS IN 1960 AMENDMENT

Section 301(d) of Pub. L. 86-707 provided that: "The term 'furniture and household and personal effects', as

used in the amendments made by this part to the Foreign Service Act of 1946, as amended [amending section 1136 of Title 22, Foreign Relations and Intercourse], and the Central Intelligence Agency Act of 1949, as amended [amending this section], and the term 'household goods and personal effects', as used in the amendments made by this part to the Administrative Expenses Act of 1946, as amended [amending section 73b-1 of former Title 5, Executive Departments and Government Officers and Employees], mean such personal property of an employee and the dependents of such employee as the Secretary of State and the Director of Central Intelligence, as the case may be, with respect to the term 'furniture and household and personal effects', and the President, with respect to the term 'household goods and personal effects', shall by regulation authorize to be transported or stored under the amendments made by this part to such Acts (including, in emergencies, motor vehicles authorized to be shipped at Government expense). Such motor vehicle shall be excluded from the weight and volume limitations prescribed by the laws set forth in this part."

Section 301(d) of Pub. L. 86-707 was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 661, insofar as it is applicable to the Administrative Expenses Act of 1946, as amended.

#### EXECUTIVE ORDER NO. 10100

Ex. Ord. No. 10100, Jan. 28, 1950, 15 F.R. 499, which provided for regulations governing the granting of allowances by the Director of the Central Intelligence Agency under this section, was revoked by section 5(a) of Ex. Ord. No. 10903, Jan. 9, 1961, 26 F.R. 217, set out under section 5921 of Title 5, Government Organization and Employees.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403f of this title.

### § 403e-1. Eligibility for incentive awards

#### (a) Scope of authority with respect to Federal employees and members of Armed Forces

The Director of Central Intelligence may exercise the authority granted in section 4503 of title 5, with respect to Federal employees and members of the Armed Forces detailed or assigned to the Central Intelligence Agency or to the Intelligence Community Staff, in the same manner as such authority may be exercised with respect to the personnel of the Central Intelligence Agency and the Intelligence Community Staff.

#### (b) Time for exercise of authority

The authority granted by subsection (a) of this section may be exercised with respect to Federal employees or members of the Armed Forces detailed or assigned to the Central Intelligence Agency or to the Intelligence Community Staff on or after a date five years before December 9, 1983.

#### (c) Exercise of authority with respect to members of Armed Forces assigned to foreign intelligence duties

During fiscal year 1987, the Director of Central Intelligence may exercise the authority granted in section 4503(2) of title 5 with respect to members of the Armed Forces who are assigned to foreign intelligence duties at the time of the conduct which gives rise to the exercise of such authority.

#### (d) Payment and acceptance of award

An award made by the Director of Central Intelligence to an employee or member of the

Armed Forces under the authority of section 4503 of title 5 or this section may be paid and accepted notwithstanding—

(1) section 5536 of title 5; and

(2) the death, separation, or retirement of the employee or the member of the Armed Forces whose conduct gave rise to the award, or the assignment of such member to duties other than foreign intelligence duties.

(Pub. L. 98-215, title IV, §402, Dec. 9, 1983, 97 Stat. 1477; Pub. L. 99-569, title V, §503, Oct. 27, 1986, 100 Stat. 3198.)

#### CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 1984, and not as part of the Central Intelligence Agency Act of 1949 which is classified to section 403a et seq. of this title, nor as part of the National Security Act of 1947 which comprises this chapter.

#### AMENDMENTS

1986—Subsecs. (c), (d). Pub. L. 99-569 added subsecs. (c) and (d).

### § 403f. General authorities of Agency

In the performance of its functions, the Central Intelligence Agency is authorized to—

(a) Transfer to and receive from other Government agencies such sums as may be approved by the Office of Management and Budget, for the performance of any of the functions or activities authorized under subparagraphs (B) and (C) of section 403(a)(2) of this title, subsections (c)(5) and (d) of section 403-3 of this title, subsections (a) and (g) of section 403-4 of this title, and section 405 of this title, and any other Government agency is authorized to transfer to or receive from the Agency such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Agency in accordance with this paragraph may be expended for the purposes and under the authority of sections 403a to 403s of this title without regard to limitations of appropriations from which transferred;

(b) Exchange funds without regard to section 3651 of the Revised Statutes;

(c) Reimburse other Government agencies for services of personnel assigned to the Agency, and such other Government agencies are authorized, without regard to provisions of law to the contrary, so to assign or detail any officer or employee for duty with the Agency;

(d) Authorize personnel designated by the Director to carry firearms to the extent necessary for the performance of the Agency's authorized functions, except that, within the United States, such authority shall be limited to the purposes of protection of classified materials and information, the training of Agency personnel and other authorized persons in the use of firearms, the protection of Agency installations and property, and the protection of Agency personnel and of defectors, their families, and other persons in the United States under Agency auspices;

(e) Make alterations, improvements, and repairs on premises rented by the Agency, and pay rent therefor without regard to limitations on expenditures contained in the Act of June 30,

1932, as amended: *Provided*, That in each case the Director shall certify that exception from such limitations is necessary to the successful performance of the Agency's functions or to the security of its activities; and

(f) Determine and fix the minimum and maximum limits of age within which an original appointment may be made to an operational position within the Agency, notwithstanding the provision of any other law, in accordance with such criteria as the Director, in his discretion, may prescribe.

(June 20, 1949, ch. 227, §5, formerly §6, 63 Stat. 211; June 26, 1951, ch. 151, 65 Stat. 89; renumbered §5, July 7, 1958, Pub. L. 85-507, §21(b)(2), 72 Stat. 337; amended Aug. 19, 1964, Pub. L. 88-448, title IV, §402(a)(28), 78 Stat. 494; Dec. 4, 1981, Pub. L. 97-89, title V, §502, 95 Stat. 1153; Dec. 9, 1983, Pub. L. 98-215, title IV, §401, 97 Stat. 1477; Dec. 3, 1993, Pub. L. 103-178, title V, §501(1), 107 Stat. 2038.)

#### REFERENCES IN TEXT

Section 403d of this title, included within the reference in subsec. (a) to sections 403a to 403q, was repealed by Pub. L. 85-507, §21(b)(2), July 7, 1958, 72 Stat. 337.

Section 403i of this title, included within the reference in subsec. (a) to sections 403a to 403q, was repealed by act Sept. 1, 1954, ch. 1208, title VI, §601(b), 68 Stat. 1115.

Section 3651 of the Revised Statutes, referred to in subsec. (b), was classified to section 543 of former Title 31, and was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1084, the first section of which enacted Title 31, Money and Finance.

Act of June 30, 1932, as amended, referred to in subsec. (e), means act June 30, 1932, ch. 314, 47 Stat. 382, popularly known as the Legislative Branch Appropriation Act, 1933. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

#### AMENDMENTS

1993—Subsec. (a). Pub. L. 103-178 substituted "Office of Management and Budget" for "Bureau of the Budget" and "subparagraphs (B) and (C) of section 403(a)(2) of this title, subsections (c)(5) and (d) of section 403-3 of this title, subsections (a) and (g) of section 403-4 of this title, and section 405 of this title" for "sections 403 and 405 of this title".

1983—Subsec. (f). Pub. L. 98-215 added subsec. (f).

1981—Subsec. (d). Pub. L. 97-89 substituted "Authorize personnel designated by the Director to carry firearms to the extent necessary for the performance of the Agency's authorized functions, except that, within the United States, such authority shall be limited to the purposes of protection of classified materials and information, the training of Agency personnel and other authorized persons in the use of firearms, the protection of Agency installations and property, and the protection of Agency personnel and of defectors, their families, and other persons in the United States under Agency auspices; and" for "Authorize couriers and guards designated by the Director to carry firearms when engaged in transportation of confidential documents and materials affecting the national defense and security;".

1964—Subsec. (f). Pub. L. 88-448 repealed subsec. (f) which authorized employment of not more than fifteen retired officers who must elect between civilian salary

and retired pay. See section 3101 et seq. of Title 5, Government Organization and Employees.

1951—Subsec. (f). Act June 26, 1951, added subsec. (f).

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–89 effective Oct. 1, 1981, see section 806 of Pub. L. 97–89, set out as an Effective Date note under section 1601 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–448 effective on first day of first month which begins later than the ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88–448.

#### RESTRICTION ON TRANSFER OF FUNDS AVAILABLE TO CENTRAL INTELLIGENCE AGENCY FOR DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

Pub. L. 103–335, title VIII, §8154(b), Sept. 30, 1994, 108 Stat. 2658, provided that: “None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e of this title.

### § 403g. Protection of nature of Agency's functions

In the interests of the security of the foreign intelligence activities of the United States and in order further to implement section 403–3(c)(5) of this title that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of sections 1 and 2 of the Act of August 28, 1935 (49 Stat. 956, 957; 5 U.S.C. 654), and the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency: *Provided*, That in furtherance of this section, the Director of the Office of Management and Budget shall make no reports to the Congress in connection with the Agency under section 607 of the Act of June 30, 1945, as amended (5 U.S.C. 947(b)).

(June 20, 1949, ch. 227, §6, formerly §7, 63 Stat. 211; renumbered §6, July 7, 1958, Pub. L. 85–507, §21(b)(2), 72 Stat. 337; amended Dec. 3, 1993, Pub. L. 103–178, title V, §501(2), 107 Stat. 2038.)

#### REFERENCES IN TEXT

Act of August 28, 1935, referred to in text, which provided for the yearly publication of the Official Register of the United States, was repealed by Pub. L. 86–626, title I, §101, July 12, 1960, 74 Stat. 427.

Section 607 of the Act of June 30, 1945, as amended, referred to in text, was repealed by act Sept. 12, 1950, ch. 946, title III, §301(85), 64 Stat. 843.

#### CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

#### AMENDMENTS

1993—Pub. L. 103–178 substituted “section 403–3(c)(5) of this title” for “the proviso of section 403(d)(3) of this title” and “Office of Management and Budget” for “Bureau of the Budget”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

### § 403h. Admission of essential aliens; limitation on number

Whenever the Director, the Attorney General, and the Commissioner of Immigration and Naturalization shall determine that the entry of a particular alien into the United States for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission, such alien and his immediate family shall be given entry into the United States for permanent residence without regard to their inadmissibility under the immigration or any other laws and regulations, or to the failure to comply with such laws and regulations pertaining to admissibility: *Provided*, That the number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed one hundred persons in any one fiscal year.

(June 20, 1949, ch. 227, §7, formerly §8, 63 Stat. 212; renumbered §7, July 7, 1958, Pub. L. 85–507, §21(b)(2), 72 Stat. 337.)

#### REFERENCES IN TEXT

The immigration laws, referred to in text, mean chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality, and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens. See section 1101(a)(17) of Title 8.

#### CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

#### CHANGE OF NAME

Ex. Ord. No. 6166, §14, June 10, 1933, set out as a note under section 901 of Title 5, Government Organization and Employees, consolidated Bureaus of Immigration and Naturalization of Department of Labor to form an Immigration and Naturalization Service in Department of Labor, to be administered by a Commissioner of Immigration and Naturalization, which was then transferred from Department of Labor to Department of Justice by Reorg. Plan No. V of 1940, eff. June 14, 1940, 5 F.R. 2223, 54 Stat. 1238, set out in the Appendix to Title 5. Accordingly, “Commissioner of Immigration and Naturalization” was substituted for “Commissioner of Immigration”.

#### TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Justice and functions of all agencies and employees of such Department, with a few exceptions, transferred to Attorney General, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 2 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

### § 403i. Repealed. Sept. 1, 1954, ch. 1208, title VI, § 601(b), 68 Stat. 1115

Section, acts June 20, 1949, ch. 227, §9, 63 Stat. 212; Aug. 16, 1950, ch. 719, 64 Stat. 450, related to establish-

ment of positions in the professional and scientific field.

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

**§ 403j. Central Intelligence Agency; appropriations; expenditures**

(a) Notwithstanding any other provisions of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out its functions, including—

(1) personal services, including personal services without regard to limitations on types of persons to be employed, and rent at the seat of government and elsewhere; health-service program as authorized by law (5 U.S.C. 7901); rental of news-reporting services; purchase or rental and operation of photographic, reproduction, cryptographic, duplication, and printing machines, equipment, and devices, and radio-receiving and radio-sending equipment and devices, including telegraph and teletype equipment; purchase, maintenance, operation, repair, and hire of passenger motor vehicles, and aircraft, and vessels of all kinds; subject to policies established by the Director, transportation of officers and employees of the Agency in Government-owned automotive equipment between their domiciles and places of employment, where such personnel are engaged in work which makes such transportation necessary, and transportation in such equipment, to and from school, of children of Agency personnel who have quarters for themselves and their families at isolated stations outside the continental United States where adequate public or private transportation is not available; printing and binding; purchase, maintenance, and cleaning of firearms, including purchase, storage, and maintenance of ammunition; subject to policies established by the Director, expenses of travel in connection with, and expenses incident to attendance at meetings of professional, technical, scientific, and other similar organizations when such attendance would be a benefit in the conduct of the work of the Agency; association and library dues; payment of premiums or costs of surety bonds for officers or employees without regard to the provisions of section 14<sup>1</sup> of title 6; payment of claims pursuant to title 28; acquisition of necessary land and the clearing of such land; construction of buildings and facilities without regard to sections 259 and 267<sup>1</sup> of title 40; repair, rental, operation, and maintenance of buildings, utilities, facilities, and appurtenances; and

(2) supplies, equipment, and personnel and contractual services otherwise authorized by law and regulations, when approved by the Director.

(b) The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency

nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified.

(June 20, 1949, ch. 227, § 8, formerly § 10, 63 Stat. 212; renumbered § 8, July 7, 1958, Pub. L. 85-507, § 21(b)(2), 72 Stat. 337.)

REFERENCES IN TEXT

Section 14 of title 6, referred to in subsec. (a)(1), was repealed by Pub. L. 93-310, title II, § 203(1), June 6, 1972, 86 Stat. 202.

Sections 259 and 267 of title 40, referred to in subsec. (a)(1), were repealed by Pub. L. 86-249, § 17(12), Sept. 9, 1959, 73 Stat. 485. See section 601 et seq. of Title 40, Public Buildings, Property, and Works.

CODIFICATION

In subsec. (a)(1), “(5 U.S.C. 7901)” substituted for “(5 U.S.C. 150)” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AVAILABILITY OF APPROPRIATIONS FOR CONSTRUCTION PROJECTS

Pub. L. 103-139, title VIII, § 8104, Nov. 11, 1993, 107 Stat. 1463, provided that: “During the current fiscal year and thereafter, funds appropriated for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.” Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-396, title IX, § 9030, Oct. 6, 1992, 106 Stat. 1907.

Pub. L. 102-172, title VIII, § 8030, Nov. 26, 1991, 105 Stat. 1177.

Pub. L. 101-511, title VIII, § 8031, Nov. 5, 1990, 104 Stat. 1881.

Pub. L. 101-165, title IX, § 9042, Nov. 21, 1989, 103 Stat. 1137.

Pub. L. 100-463, title VIII, § 8074, Oct. 1, 1988, 102 Stat. 2270-29.

Pub. L. 100-202, § 101(b) [title VIII, § 8095], Dec. 22, 1987, 101 Stat. 1329-43, 1329-79.

Pub. L. 99-500, § 101(c) [title IX, § 9130], Oct. 18, 1986, 100 Stat. 1783-82, 1783-128; Pub. L. 99-591, § 101(c) [title IX, § 9130], Oct. 30, 1986, 100 Stat. 3341-82, 3341-128.

ACQUISITION OF CRITICAL SKILLS

Pub. L. 99-569, title V, § 506, Oct. 27, 1986, 100 Stat. 3202, provided that: “Pursuant to the authority granted in section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), the Director of Central Intelligence shall establish an undergraduate training program with respect to civilian employees of the Central Intelligence Agency similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish under section 16 of the National Security Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title; title 5 section 5948; title 31 sections 1344, 3524.

**§ 403k. Authority to pay death gratuities**

(a)(1) The Director may pay a gratuity to the surviving dependents of any officer or employee of the Agency who dies as a result of injuries (other than from disease) sustained outside the United States and whose death—

<sup>1</sup> See References in Text note below.



(A) resulted from hostile or terrorist activities; or

(B) occurred in connection with an intelligence activity having a substantial element of risk.

(2) The provisions of this subsection shall apply with respect to deaths occurring after June 30, 1974.

(b) Any payment under subsection (a) of this section—

(1) shall be in an amount equal to the amount of the annual salary of the officer or employee concerned at the time of death;

(2) shall be considered a gift and shall be in lieu of payment of any lesser death gratuity authorized by any other Federal law; and

(3) shall be made under the same conditions as apply to payments authorized by section 3973 of title 22.

(June 20, 1949, ch. 227, § 11, as added Oct. 14, 1980, Pub. L. 96-450, title IV, § 403(a), 94 Stat. 1978.)

#### CODIFICATION

In subsec. (b)(3), “section 3973 of title 22” substituted for “section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a)” on authority of section 2401(c) of the Foreign Service Act of 1980 (22 U.S.C. 4172(c)), section 2205(10) of which repealed section 14 of the 1956 Act (22 U.S.C. 2679a).

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

### § 403l. Authority to accept gifts, devises and bequests

#### (a) Use for operational purposes prohibited

Subject to the provisions of this section, the Director may accept, hold, administer, and use gifts of money, securities, or other property whenever the Director determines it would be in the interest of the United States to do so. Any gift accepted under this section (and any income produced by any such gift) may be used only for artistic display or for purposes relating to the general welfare, education, or recreation of employees or dependents of employees of the Agency or for similar purposes, and under no circumstances may such a gift (or any income produced by any such gift) be used for operational purposes. The Director may not accept any gift under this section which is expressly conditioned upon any expenditure not to be met from the gift itself or from income produced by the gift unless such expenditure has been authorized by law.

#### (b) Sale, exchange and investment of gifts

Unless otherwise restricted by the terms of the gift, the Director may sell or exchange, or invest or reinvest, any property which is accepted under this section, but any such investment may only be in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

#### (c) Deposit of gifts into special fund

There is hereby created on the books of the Treasury of the United States a fund into which

gifts of money, securities, and other intangible property accepted under the authority of this section, and the earnings and proceeds thereof, shall be deposited. The assets of such fund shall be disbursed upon the order of the Director for the purposes specified in subsection (a) or (b) of this section.

#### (d) Taxation of gifts

For purposes of Federal income, estate, and gift taxes, gifts accepted by the Director under this section shall be considered to be to or for the use of the United States.

#### (e) “Gift” defined

For the purposes of this section, the term “gift” includes a bequest or devise.

(June 20, 1949, ch. 227, § 12, as added Oct. 14, 1980, Pub. L. 96-450, title IV, § 404, 94 Stat. 1979.)

#### CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

### § 403m. Misuse of Agency name, initials, or seal

#### (a) Prohibited acts

No person may, except with the written permission of the Director, knowingly use the words “Central Intelligence Agency”, the initials “CIA”, the seal of the Central Intelligence Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Central Intelligence Agency.

#### (b) Injunction

Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a) of this section, the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

(June 20, 1949, ch. 227, § 13, as added Dec. 4, 1981, Pub. L. 97-89, title V, § 503, 95 Stat. 1153.)

#### CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

#### EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 806 of Pub. L. 97-89, set out as a note under section 1601 of Title 10, Armed Forces.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

**§ 403n. Special provisions for spouses of Central Intelligence Agency employees applicable to Agency participants in Civil Service Retirement and Disability System**

**(a) Manner and extent of applicability**

The provisions of sections 2002, 2031(b)(1)–(3), 2031(f), 2031(g), 2031(h)(2), 2031(i), 2031(l), 2032, 2033, 2034, 2035, 2052(b), 2071(b), 2071(d), and 2094(b) of this title establishing certain requirements, limitations, rights, entitlements, and benefits relating to retirement annuities, survivor benefits, and lump-sum payments for a spouse or former spouse of an Agency employee who is a participant in the Central Intelligence Agency Retirement and Disability System shall apply in the same manner and to the same extent in the case of an Agency employee who is a participant in the Civil Service Retirement and Disability System.

**(b) Regulations**

The Director of the Office of Personnel Management, in consultation with the Director of Central Intelligence, shall prescribe such regulations as may be necessary to implement the provisions of this section.

(June 20, 1949, ch. 227, § 14, as added Sept. 27, 1982, Pub. L. 97–269, title VI, § 612, 96 Stat. 1154; amended Oct. 27, 1986, Pub. L. 99–569, title III, § 302(b), 100 Stat. 3194; Pub. L. 100–178, title IV, §§ 401(b), 402(b)(3), Dec. 2, 1987, 101 Stat. 1013, 1014; Oct. 24, 1992, Pub. L. 102–496, title VIII, § 803(a)(1), 106 Stat. 3251.)

## CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

## AMENDMENTS

1992—Subsec. (a). Pub. L. 102–496 substituted references to sections 2002, 2031 to 2035, 2052, 2071, and 2094 of this title for references in original to sections 204, 221 to 225, 232, 234 and 263 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees which were formerly set out in a note under section 403 of this title.

1987—Subsec. (a). Pub. L. 100–178, § 402(b)(3), inserted “232(b),” before “234(c), 234(d).”

Pub. L. 100–178, § 401(b), inserted “225,” after “223, 224.”

1986—Subsec. (a). Pub. L. 99–569 inserted “224,” after “223.”

## EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102–496, set out as an Effective Date note under section 2001 of this title.

## EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–178 effective Nov. 15, 1982, but not to be construed to require forfeiture by any individual of benefits received before Dec. 2, 1987, nor to require reduction in level of benefits received by any individual who was receiving benefits under section 232 of Pub. L. 88–643 before Dec. 2, 1987, see section 402(c)–(e) of Pub. L. 100–178, set out as an Effective Date

of Amendments to Pub. L. 88–643 Prior to Enactment of Pub. L. 102–496 note under section 2001 of this title.

## EFFECTIVE DATE OF 1986 AMENDMENT

Section 302(d) of Pub. L. 99–569 provided that: “The amendments made by this section [amending this section and provisions formerly set out as a note under section 403 of this title] shall take effect on October 1, 1986.”

## EFFECTIVE DATE

Section effective Nov. 15, 1982, see section 613 of Pub. L. 97–269 set out as an Effective Date of Amendments to Pub. L. 88–643 Prior to Enactment of Pub. L. 102–496 note under section 2001 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

**§ 403o. Security personnel at Agency installations**

**(a) Special policemen: functions and powers; regulations: promulgation and enforcement**

The Director may authorize Agency personnel within the United States to perform the same functions as special policemen of the General Services Administration perform under section 318 of title 40, with the powers set forth in that section, except that such personnel shall perform such functions and exercise such powers only within Agency installations and the rules and regulations enforced by such personnel shall be rules and regulations promulgated by the Director.

**(b) Penalties for violations of regulations**

The Director is authorized to establish penalties for violations of the rules or regulations promulgated by the Director under subsection (a) of this section. Such penalties shall not exceed those specified in section 318c of title 40.

**(c) Identification**

Agency personnel designated by the Director under subsection (a) of this section shall be clearly identifiable as United States Government security personnel while engaged in the performance of the functions to which subsection (a) of this section refers.

(June 20, 1949, ch. 227, § 15, as added Oct. 12, 1984, Pub. L. 98–473, title I, § 140, 98 Stat. 1973, as added Nov. 8, 1984, Pub. L. 98–618, title IV, § 401, 98 Stat. 3301.)

## CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

Provisions of this section were also enacted by the Intelligence Authorization Act for fiscal year 1985, Pub. L. 98–618, title IV, § 401, Nov. 8, 1984, 98 Stat. 3301.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

**§ 403p. Health benefits for certain former spouses of Central Intelligence Agency employees**

**(a) Persons eligible**

Except as provided in subsection (e) of this section, any individual—

(1) formerly married to an employee or former employee of the Agency, whose marriage was dissolved by divorce or annulment before May 7, 1985;

(2) who, at any time during the eighteen-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

(3) who was married to such employee for not less than ten years during periods of service by such employee with the Agency, at least five years of which were spent outside the United States by both the employee and the former spouse,

is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

**(b) Enrollment for health benefits**

(1) Any individual eligible for coverage under subsection (a) of this section may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the six-month period beginning on October 1, 1986, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

(A) files an election for such enrollment; and

(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5 an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

(2) The Director of Central Intelligence shall, as soon as possible, take all steps practicable—

(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a) of this section; and

(B) to notify each such former spouse of that individual's rights under this section.

(3) The Director of the Office of Personnel Management, upon notification by the Director of Central Intelligence, shall waive the six-month limitation set forth in paragraph (1) in any case in which the Director of Central Intelligence determines that the circumstances so warrant.

**(c) Eligibility of former wives or husbands**

(1) Notwithstanding subsections (a) and (b) of this section and except as provided in subsections (d), (e), and (f) of this section, an individual—

(A) who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or the Federal Employees Retirement System Special Category;

(B) who was married to such participant for not less than ten years during the participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Agency outside the United States, or otherwise in a position the duties of which qualified

the participant for designation by the Director of Central Intelligence as a participant under section 2013 of this title; and

(C) who was enrolled in a health benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to such participant;

is eligible for coverage under a health benefits plan.

(2) A former spouse eligible for coverage under paragraph (1) may enroll in a health benefits plan in accordance with subsection (b)(1) of this section, except that the election for such enrollment must be submitted within 60 days after the date on which the Director notifies the former spouse of such individual's eligibility for health insurance coverage under this subsection.

**(d) Continuation of eligibility**

Notwithstanding subsections (a), (b), and (c) of this section and except as provided in subsections (e) and (f) of this section, an individual divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or Federal Employees' Retirement System Special Category who enrolled in a health benefits plan following the dissolution of the marriage to such participant may continue enrollment following the death of such participant notwithstanding the termination of the retirement annuity of such individual.

**(e) Remarriage before age fifty-five; continued enrollment; restored eligibility**

(1) Any former spouse who remarries before age fifty-five is not eligible to make an election under subsection (b)(1) of this section.

(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) of this section or to subsection (d) of this section may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age fifty-five shall not be eligible for continued enrollment under this section after the end of the thirty-one-day period beginning on the date of remarriage.

(3)(A) A former spouse who is not eligible to enroll or to continue enrollment in a health benefits plan under this section solely because of remarriage before age fifty-five shall be restored to such eligibility on the date such remarriage is dissolved by death, annulment, or divorce.

(B) A former spouse whose eligibility is restored under subparagraph (A) may, under regulations which the Director of the Office of Personnel Management shall prescribe, enroll in a health benefits plan if such former spouse—

(i) was an individual referred to in paragraph (1) and was an individual covered under a benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to the Agency employee or annuitant; or

(ii) was an individual referred to in paragraph (2) and was an individual covered under a benefits plan immediately before the remarriage ended the enrollment.

**(f) Enrollment in health benefits plan under other authority**

No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

**(g) “Health benefits plan” defined**

For purposes of this section the term “health benefits plan” means an approved health benefits plan under chapter 89 of title 5.

(June 20, 1949, ch. 227, § 16, as added Oct. 27, 1986, Pub. L. 99-569, title III, § 303(a), 100 Stat. 3194; amended Aug. 14, 1991, Pub. L. 102-88, title III, § 307(c), 105 Stat. 433; Dec. 3, 1993, Pub. L. 103-178, title II, § 203(c), 107 Stat. 2031.)

**CODIFICATION**

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

**AMENDMENTS**

1993—Subsec. (a). Pub. L. 103-178, § 203(c)(2)(A), substituted “subsection (e)” for “subsection (c)(1)” in introductory provisions.

Subsecs. (c), (d). Pub. L. 103-178, § 203(c)(1), added subsecs. (c) and (d). Former subsecs. (c) and (d) redesignated (e) and (f), respectively.

Subsec. (e). Pub. L. 103-178, § 203(c)(2)(B), inserted “or to subsection (d) of this section” after “subsection (b)(1) of this section” in par. (2).

Pub. L. 103-178, § 203(c)(1)(A), redesignated subsec. (c) as (e). Former subsec. (e) redesignated (g).

Subsecs. (f), (g). Pub. L. 103-178, § 203(c)(1)(A), redesignated subsecs. (d) and (e) as (f) and (g), respectively.

1991—Subsec. (c)(3). Pub. L. 102-88 added par. (3).

**EFFECTIVE DATE OF 1993 AMENDMENT**

Amendment by section 203(c) of Pub. L. 103-178 applicable to individuals on and after Oct. 1, 1994, with no benefits provided pursuant to section 203(c) payable with respect to any period before Oct. 1, 1994, except that subsec. (d) of this section applicable to individuals beginning Dec. 3, 1993, see section 203(e) of Pub. L. 103-178, set out as a Survivor Annuity, Retirement Annuity, and Health Benefits for Certain Ex-Spouses of Central Intelligence Agency Employees; Effective Date note under section 2032 of this title.

**EFFECTIVE DATE OF 1991 AMENDMENT**

Section 307(d) of Pub. L. 102-88 provided that: “The amendments made by this section [amending this section and provisions formerly set out as a note under section 403 of this title] shall take effect as of October 1, 1990. No benefits provided pursuant to the amendments made by this section shall be payable with respect to any period before such date.”

**EFFECTIVE DATE**

Section 303(b) of Pub. L. 99-569 provided that: “The amendment made by this section [enacting this section] shall take effect on October 1, 1986.”

**COMPLIANCE WITH BUDGET ACT**

Section 307(e) of Pub. L. 102-88 provided that: “Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)]) provided pursuant to the amendments made by this section [amending this section and provisions formerly set out as a note under section 403 of this title] shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.”

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 403a, 403e, 403f of this title.

**§ 403q. Inspector General for Agency**

**(a) Purpose; establishment**

In order to—

(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently inspections, investigations, and audits relating to programs and operations of the Agency;

(2) provide leadership and recommend policies designed to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and detect fraud and abuse in such programs and operations;

(3) provide a means for keeping the Director fully and currently informed about problems and deficiencies relating to the administration of such programs and operations, and the necessity for and the progress of corrective actions; and

(4) in the manner prescribed by this section, ensure that the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence (hereafter in this section referred to collectively as the “intelligence committees”) are kept similarly informed of significant problems and deficiencies as well as the necessity for and the progress of corrective actions,

there is hereby established in the Agency an Office of Inspector General (hereafter in this section referred to as the “Office”).

**(b) Appointment; supervision; removal**

(1) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate. This appointment shall be made without regard to political affiliation and shall be solely on the basis of integrity, compliance with the security standards of the Agency, and prior experience in the field of foreign intelligence. Such appointment shall also be made on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or auditing.

(2) The Inspector General shall report directly to and be under the general supervision of the Director.

(3) The Director may prohibit the Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

(4) If the Director exercises any power under paragraph (3), he shall submit an appropriately classified statement of the reasons for the exercise of such power within seven days to the intelligence committees. The Director shall advise the Inspector General at the time such report is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of any such report. In such cases, the Inspector General may submit such comments to the intelligence committees that he considers appropriate.

(5) In accordance with section 535 of title 28, the Director shall report to the Attorney General any information, allegation, or complaint received from the Inspector General, relating to violations of Federal criminal law involving any officer or employee of the Agency, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of all such reports shall be furnished to the Inspector General.

(6) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the intelligence committees the reasons for any such removal.

**(c) Duties and responsibilities**

It shall be the duty and responsibility of the Inspector General appointed under this section—

(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the inspections, investigations, and audits relating to the programs and operations of the Agency to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) to keep the Director fully and currently informed concerning violations of law and regulations, fraud and other serious problems, abuses and deficiencies that may occur in such programs and operations, and to report the progress made in implementing corrective action;

(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Office, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

(4) in the execution of his responsibilities, to comply with generally accepted government auditing standards.

**(d) Semiannual reports; immediate reports of serious or flagrant problems; reports of functional problems**

(1) The Inspector General shall, not later than January 31 and July 31 of each year, prepare and submit to the Director of Central Intelligence a classified semiannual report summarizing the activities of the Office during the immediately preceding six-month periods ending December 31 (of the preceding year) and June 30, respectively. Within thirty days of receipt of such reports, the Director shall transmit such reports to the intelligence committees with any comments he may deem appropriate. Such reports shall, at a minimum, include a list of the title or subject of each inspection, investigation, or audit conducted during the reporting period and—

(A) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Agency identified by the Office during the reporting period;

(B) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified in subparagraph (A);

(C) a statement of whether corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action;

(D) a certification that the Inspector General has had full and direct access to all information relevant to the performance of his functions;

(E) a description of all cases occurring during the reporting period where the Inspector General could not obtain documentary evidence relevant to any inspection, audit, or investigation due to his lack of authority to subpoena such information; and

(F) such recommendations as the Inspector General may wish to make concerning legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Agency, and to detect and eliminate fraud and abuse in such programs and operations.

(2) The Inspector General shall report immediately to the Director whenever he becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations. The Director shall transmit such report to the intelligence committees within seven calendar days, together with any comments he considers appropriate.

(3) In the event that—

(A) the Inspector General is unable to resolve any differences with the Director affecting the execution of the Inspector General's duties or responsibilities;

(B) an investigation, inspection, or audit carried out by the Inspector General should focus upon the Director or Acting Director; or

(C) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit, the Inspector General shall immediately report such matter to the intelligence committees.

(4) Pursuant to Title V of the National Security Act of 1947 [50 U.S.C. 413 et seq.], the Director shall submit to the intelligence committees any report or findings and recommendations of an inspection, investigation, or audit conducted by the office which has been requested by the Chairman or Ranking Minority Member of either committee.

**(e) Authorities of Inspector General**

(1) The Inspector General shall have direct and prompt access to the Director when necessary for any purpose pertaining to the performance of his duties.

(2) The Inspector General shall have access to any employee or any employee of a contractor of the Agency whose testimony is needed for the performance of his duties. In addition, he shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this sec-

tion. Failure on the part of any employee or contractor to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director, to include loss of employment or the termination of an existing contractual relationship.

(3) The Inspector General is authorized to receive and investigate complaints or information from any person concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the Agency—

(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation; and

(B) no action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee of the Agency in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(4) The Inspector General shall have authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of his duties, which oath<sup>1</sup> affirmation, or affidavit when administered or taken by or before an employee of the Office designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal.

(5) The Inspector General shall be provided with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

(6) Subject to applicable law and the policies of the Director, the Inspector General shall select, appoint and employ such officers and employees as may be necessary to carry out his functions. In making such selections, the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable him to carry out his duties effectively. In this regard, the Inspector General shall create within his organization a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of his duties.

(7) Subject to the concurrence of the Director, the Inspector General may request such information or assistance as may be necessary for carrying out his duties and responsibilities from any Federal agency. Upon request of the Inspector General for such information or assistance, the head of the Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency concerned, furnish

to the Inspector General, or to an authorized designee, such information or assistance.

#### (f) Separate budget account

Beginning with fiscal year 1991, and in accordance with procedures to be issued by the Director of Central Intelligence in consultation with the intelligence committees, the Director of Central Intelligence shall include in the National Foreign Intelligence Program budget a separate account for the Office of Inspector General established pursuant to this section.

#### (g) Transfer

There shall be transferred to the Office the office of the Agency referred to as the “Office of Inspector General.” The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, or available to such “Office of Inspector General” are hereby transferred to the Office established pursuant to this section.

(June 20, 1949, ch. 227, § 17, as added Sept. 29, 1988, Pub. L. 100-453, title V, § 504, 102 Stat. 1910; amended Nov. 30, 1989, Pub. L. 101-193, title VIII, § 801, 103 Stat. 1711; Oct. 24, 1992, Pub. L. 102-496, title VI, § 601, 106 Stat. 3187; Oct. 14, 1994, Pub. L. 103-359, title IV, § 402, 108 Stat. 3427.)

#### REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (d)(4), is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. Title V of the Act is classified generally to subchapter III (§ 413 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

#### CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

#### AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103-359, § 402(1), substituted “analysis, public administration, or auditing” for “analysis, or public administration”.

Subsec. (c)(1). Pub. L. 103-359, § 402(2), substituted “to plan, conduct” for “to conduct”.

Subsec. (d)(1). Pub. L. 103-359, § 402(3), in introductory provisions, substituted “January 31 and July 31” for “June 30 and December 31” and “periods ending December 31 (of the preceding year) and June 30, respectively” for “period” and inserted “of receipt of such reports” after “thirty days”.

Subsec. (d)(3)(C). Pub. L. 103-359, § 402(4), substituted “investigation, inspection, or audit,” for “investigation,”.

Subsec. (d)(4). Pub. L. 103-359, § 402(5), inserted “or findings and recommendations” after “report”.

Subsec. (e)(6). Pub. L. 103-359, § 402(6), substituted “the Inspector General shall” for “it is the sense of Congress that the Inspector General should”.

1992—Subsec. (e)(3). Pub. L. 102-496, in introductory provisions, substituted “any person” for “an employee of the Agency” and inserted “from an employee of the Agency” after “received”.

1989—Pub. L. 101-193 amended section generally, substituting subsecs. (a) to (g) relating to establishment of the Office of Inspector General and appointment, duties, and authority of Inspector General for introductory par. and subsecs. (a) to (e) relating to various reports to be filed with the intelligence committees by

<sup>1</sup> So in original. Probably should be followed by a comma.

Director of Central Intelligence concerning selection and activities of Inspector General.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

### § 403r. Special annuity computation rules for certain employees' service abroad

#### (a) Officers and employees to whom rules apply

Notwithstanding any provision of chapter 83 of title 5, the annuity under subchapter III of such chapter of an officer or employee of the Central Intelligence Agency who retires on or after October 1, 1989, is not designated under section 2013 of this title, and has served abroad as an officer or employee of the Agency on or after January 1, 1987, shall be computed as provided in subsection (b) of this section.

#### (b) Computation rules

(1) The portion of the annuity relating to such service abroad that is actually performed at any time during the officer's or employee's first ten years of total service shall be computed at the rate and using the percent of average pay specified in section 8339(a)(3) of title 5 that is normally applicable only to so much of an employee's total service as exceeds ten years.

(2) The portion of the annuity relating to service abroad as described in subsection (a) of this section but that is actually performed at any time after the officer's or employee's first ten years of total service shall be computed as provided in section 8339(a)(3) of title 5; but, in addition, the officer or employee shall be deemed for annuity computation purposes to have actually performed an equivalent period of service abroad during his or her first ten years of total service, and in calculating the portion of the officer's or employee's annuity for his or her first ten years of total service, the computation rate and percent of average pay specified in paragraph (1) shall also be applied to the period of such deemed or equivalent service abroad.

(3) The portion of the annuity relating to other service by an officer or employee as described in subsection (a) of this section shall be computed as provided in the provisions of section 8339(a) of title 5 that would otherwise be applicable to such service.

(4) For purposes of this subsection, the term "total service" has the meaning given such term under chapter 83 of title 5.

#### (c) Annuities deemed annuities under section 8339 of title 5

For purposes of subsections (f) through (m) of section 8339 of title 5, an annuity computed under this section shall be deemed to be an annuity computed under subsections (a) and (o)<sup>1</sup> of section 8339 of title 5.

#### (d) Officers and employees entitled to greater annuities under section 8339 of title 5

The provisions of subsection (a) of this section shall not apply to an officer or employee of the Central Intelligence Agency who would otherwise be entitled to a greater annuity computed under an otherwise applicable subsection of section 8339 of title 5.

<sup>1</sup> See References in Text note below.

(June 20, 1949, ch. 227, § 18, as added Nov. 30, 1989, Pub. L. 101-193, title III, § 305, 103 Stat. 1704; amended Oct. 24, 1992, Pub. L. 102-496, title VIII, § 803(a)(2), 106 Stat. 3252.)

#### REFERENCES IN TEXT

Subsection (o) of section 8339 of title 5, referred to in subsec. (c), was redesignated subsec. (p) of that section by Pub. L. 102-378, § 2(62), Oct. 2, 1992, 106 Stat. 1354.

#### CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-496 substituted reference to section 2013 of this title for reference in original to section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees which was formerly set out as a note under section 403 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as an Effective Date note under section 2001 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f, 403r-1, 2144 of this title; title 10 section 1605.

### § 403r-1. Portability of overseas service retirement benefit

The special accrual rates provided by section 2153 of this title and by section 403r of this title for computation of the annuity of an individual who has served abroad as an officer or employee of the Central Intelligence Agency shall be used to compute that portion of the annuity of such individual relating to such service abroad whether or not the individual is employed by the Central Intelligence Agency at the time of retirement from Federal service.

(Pub. L. 101-193, title III, § 306, Nov. 30, 1989, 103 Stat. 1704; Pub. L. 103-178, title II, § 204(a), Dec. 3, 1993, 107 Stat. 2033.)

#### CODIFICATION

Section was enacted as part of the Intelligence Authorization Act, Fiscal Year 1990, and not as part of the Central Intelligence Agency Act of 1949 which is classified to section 403a et seq. of this title, nor as part of the National Security Act of 1947 which comprises this chapter.

#### AMENDMENTS

1993—Pub. L. 103-178 substituted reference to section 2153 of this title for reference in original to section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

### § 403s. Special rules for disability retirement and death-in-service benefits with respect to certain employees

#### (a) Officers and employees to whom section 2051 rules apply

Notwithstanding any other provision of law, an officer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III of chapter 83 of title 5 who—

(1) has five years of civilian service credit toward retirement under such subchapter III of chapter 83, title 5;

(2) has not been designated under section 2013 of this title,<sup>1</sup> as a participant in the Central Intelligence Agency Retirement and Disability System;

(3) has become disabled during a period of assignment to the performance of duties that are qualifying toward such designation under such section 2013 of this title; and

(4) satisfies the requirements for disability retirement under section 8337 of title 5—

shall, upon his own application or upon order of the Director, be retired on an annuity computed in accordance with the rules prescribed in section 2051 of this title, in lieu of an annuity computed as provided by section 8337 of title 5.

**(b) Survivors of officers and employees to whom section 2052 rules apply**

Notwithstanding any other provision of law, in the case of an officer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III of chapter 83, title 5, who—

(1) has at least eighteen months of civilian service credit toward retirement under such subchapter III of chapter 83, title 5;

(2) has not been designated under section 2013 of this title,<sup>1</sup> as a participant in the Central Intelligence Agency Retirement and Disability System;

(3) prior to separation or retirement from the Agency, dies during a period of assignment to the performance of duties that are qualifying toward such designation under such section 2013 of this title; and

(4) is survived by a surviving spouse, former spouse, or child as defined in section 2002 of this title, who would otherwise be entitled to an annuity under section 8341 of title 5—

such surviving spouse, former spouse, or child of such officer or employee shall be entitled to an annuity computed in accordance with section 2052 of this title, in lieu of an annuity computed in accordance with section 8341 of title 5.

**(c) Annuities under this section deemed annuities under chapter 83 of title 5**

The annuities provided under subsections (a) and (b) of this section shall be deemed to be annuities under chapter 83 of title 5 for purposes of the other provisions of such chapter and other laws (including title 26) relating to such annuities, and shall be payable from the Central Intelligence Agency Retirement and Disability Fund maintained pursuant to section 2012 of this title.

(June 20, 1949, ch. 227, § 19, as added Nov. 30, 1989, Pub. L. 101-193, title III, § 307(a), 103 Stat. 1705; amended Oct. 24, 1992, Pub. L. 102-496, title VIII, § 803(a)(3), 106 Stat. 3252; Dec. 3, 1993, Pub. L. 103-178, title V, § 501(3), 107 Stat. 2038.)

**CODIFICATION**

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the Na-

tional Security Act of 1947 which comprises this chapter.

**AMENDMENTS**

1993—Subsec. (b). Pub. L. 103-178, § 501(3)(A), (C), substituted “section 2052” for “section 2051” in heading and closing provisions.

Subsec. (b)(2). Pub. L. 103-178, § 501(3)(B), made technical amendment to reference to section 2013 of this title to update reference to corresponding section of original act.

1992—Subsec. (a). Pub. L. 102-496, § 803(a)(3)(A), inserted heading, redesignated cl. (i) as par. (1), in cl. (ii), substituted reference to section 2013 of this title for reference in original to section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, which was formerly set out as a note under section 403 of this title, and redesignated such cl. as par. (2), in cl. (iii), inserted “such” before reference to section 2013 of this title and redesignated such cl. as par. (3), redesignated cl. (iv) as par. (4), and substituted reference to section 2051 of this title for “such section 231” in concluding provisions.

Subsec. (b). Pub. L. 102-496, § 803(a)(3)(B)(i), (ii), (iv)–(vi), inserted heading, redesignated cl. (i) as par. (1), in cl. (ii), substituted reference to section 2013 of this title for reference in original to section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, which was formerly set out as a note under section 403 of this title, and redesignated cl. (ii) as par. (2), redesignated cls. (iii) and (iv) as pars. (3) and (4), respectively, and in concluding provisions, substituted “surviving spouse, former spouse, or child” for “widow or widower, former spouse, and/or child or children” and substituted reference to section 2051 of this title for “such section 232”.

Pub. L. 102-496, § 803(a)(3)(B)(iii), which directed the substitution of “surviving spouse, former spouse, or child as defined in section 2002 of this title” in cl. (iv) for “widow or widower, former spouse, and/or child or children as defined in section 204 and section 232 of such the Central Intelligence Agency Retirement Act of 1964 for Certain Employees”, was executed by making the substitution for “widow or widower, former spouse, and/or a child or children as defined in section 204 and section 232 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees”, to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 102-496, § 803(a)(3)(D)(i)–(iii), inserted heading, struck out par. (1) designation before “The annuities provided”, substituted “maintained pursuant to section 2012 of this title” for “established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees”, and struck out par. (2) which read as follows: “The annuities and/or other benefits provided under subsections (c) and (d) of this section shall be deemed to be annuities and/or benefits under chapter 84 of title 5 for purposes of the other provisions of such chapter and other laws (including title 26) relating to such annuities and/or benefits, but shall be payable from the Central Intelligence Agency Retirement and Disability Fund established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.”

Pub. L. 102-496, § 803(a)(3)(C), (D), redesignated subsec. (e) as (c) and struck out former subsec. (c) which provided for retirement of officers and employees of the Central Intelligence Agency as though designated pursuant to section 302(a) of Pub. L. 88-643 which was formerly set out as a note under section 403 of this title.

Subsec. (d). Pub. L. 102-496, § 803(a)(3)(C), struck out subsec. (d) which provided that survivors of officers and employees of the Central Intelligence Agency were to receive benefits as though deceased had been designated pursuant to section 302(a) of Pub. L. 88-643, which was formerly set out as a note under section 403 of this title.

Subsec. (e). Pub. L. 102-496, § 803(a)(3)(D), redesignated subsec. (e) as (c).

<sup>1</sup> So in original. The comma probably should not appear.



## EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as an Effective Date note under section 2001 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title.

**§ 404. Emergency preparedness****(a) Employment of personnel**

The Director of the Federal Emergency Management Agency, subject to the direction of the President, is authorized, subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, to appoint and fix the compensation of such personnel as may be necessary to assist him in carrying out his functions.

**(b) Functions**

It shall be the function of the Director of the Federal Emergency Management Agency to advise the President concerning the coordination of military, industrial, and civilian mobilization, including—

(1) policies concerning industrial and civilian mobilization in order to assure the most effective mobilization and maximum utilization of the Nation's manpower in the event of war;

(2) programs for the effective use in time of war of the Nation's natural and industrial resources for military and civilian needs, for the maintenance and stabilization of the civilian economy in time of war, and for the adjustment of such economy to war needs and conditions;

(3) policies for unifying, in time of war, the activities of Federal agencies and departments engaged in or concerned with production, procurement, distribution, or transportation of military or civilian supplies, materials, and products;

(4) the relationship between potential supplies of, and potential requirements for, manpower, resources, and productive facilities in time of war;

(5) policies for establishing adequate reserves of strategic and critical material, and for the conservation of these reserves;

(6) the strategic relocation of industries, services, government, and economic activities, the continuous operation of which is essential to the Nation's security.

**(c) Utilization of Government resources and facilities**

In performing his functions, the Director of the Federal Emergency Management Agency shall utilize to the maximum extent the facilities and resources of the departments and agencies of the Government.

(July 26, 1947, ch. 343, title I, § 107, formerly § 103, 61 Stat. 499; Oct. 28, 1949, ch. 782, title IX, § 1106(a), 63 Stat. 972; 1950 Reorg. Plan No. 25, § 1, eff. July 9, 1950, 15 F.R. 4366, 64 Stat. 1280; 1953 Reorg. Plan No. 3, § 2(a), eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634; Sept. 3, 1954, ch. 1263, § 50, 68 Stat. 1244; 1958 Reorg. Plan No. 1, § 2, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799; Oct. 21, 1968, Pub.

L. 90-608, ch. IV, § 402, 82 Stat. 1194; Ex. Ord. No. 11725, § 3, eff. June 29, 1973, 38 F.R. 17175; Ex. Ord. No. 12148, §§ 1-103, 4-102, July 20, 1979, 44 F.R. 43239; renumbered § 107, Oct. 24, 1992, Pub. L. 102-496, title VII, § 705(a)(2), 106 Stat. 3190.)

## REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

## CODIFICATION

In subsec. (a), "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949" on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

## AMENDMENTS

1954—Act Sept. 3, 1954, struck out subsec. (a) relating to establishment of National Security Resources Board, and redesignated subsecs. (b) to (d) as subsecs. (a) to (c), respectively.

1949—Subsec. (b). Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

## REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

## TRANSFER OF FUNCTIONS

"Director of the Federal Emergency Management Agency" substituted for "Chairman of the Board" in subsec. (a), and for "Board" in subsecs. (b) and (c), on authority of the following:

"Chairman of the Board", meaning Chairman of National Security Resources Board, substituted in subsecs. (b) and (c) for "Board", meaning National Security Resources Board, on authority of section 1 of Reorg. Plan No. 25 of 1950, set out below.

"Director of the Office of Defense Mobilization" substituted in text for "Chairman of Board" meaning National Security Resources Board, pursuant to Reorg. Plan No. 3 of 1953, §§ 1(a), 2(a), and 6, eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634, set out below, which established Office of Defense Mobilization, as an agency within Executive Office of President, abolished National Security Resources Board, and transferred to Director of Office of Defense Mobilization functions, records, property, personnel, and funds of Board.

Office of Defense Mobilization and Federal Civil Defense Administration consolidated to form Office of Emergency Planning, an agency within Executive Office of President, by section 2 of Reorg. Plan No. 1 of 1958, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended, set out in the Appendix to Title 5, Government Organization and Employees, and functions vested by law in Office of Defense Mobilization and Director thereof transferred to President, with power to delegate, by section 1 of Reorg. Plan No. 1 of 1958.

Office of Emergency Planning changed to Office of Emergency Preparedness pursuant to section 402 of Pub. L. 90-608, Oct. 21, 1968, 82 Stat. 1194, which provided that references in laws to Office of Emergency Planning after Oct. 21, 1968, should be deemed references to Office of Emergency Preparedness.

Office of Emergency Preparedness, including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions vested by law in Office of Emergency Preparedness transferred to President of United States by sections 1 and 3(a)(1) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out in the Appendix to Title 5, Government Organization and Employees.

Functions vested in Director of Office of Emergency Preparedness as of June 30, 1973, by Executive Order,

proclamation, or other directive issued by or on behalf of President or otherwise under this section and Ex. Ord. No. 10421, formerly set out below, with certain exceptions, transferred to Administrator of General Services by Ex. Ord. No. 11725, §3, June 27, 1973, 38 F.R. 17175, formerly set out under section 2271 of the Appendix to this title, to be exercised in conformance with such guidance as provided by National Security Council and, with respect to economic and disposal aspects of stockpiling of strategic and critical materials by Council on Economic Policy. Functions of Administrator of General Services under this chapter performed by Federal Preparedness Agency within General Services Administration.

Functions of Director of Office of Defense Mobilization under this section, which were previously transferred to President, delegated to Director of Federal Emergency Management Agency by sections 1-103 and 4-102 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

#### EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Director of Federal Emergency Management Agency, see parts 1, 2, and 17 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

#### OFFICE OF EMERGENCY PLANNING

Pub. L. 87-296, §2, Sept. 22, 1961, 75 Stat. 630, provided that: "Any reference in any other law to the Office of Civil and Defense Mobilization shall, after the date of this Act [Sept. 22, 1961], be deemed to refer to the Office of Emergency Planning."

#### REORGANIZATION PLAN NO. 25 OF 1950

Eff. July 9, 1950, 15 F.R. 4366, 64 Stat. 1280

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see 5 U.S.C. 901 et seq.].

#### NATIONAL SECURITY RESOURCES BOARD

##### SECTION 1. FUNCTIONS OF CHAIRMAN AND OF BOARD

The functions of the National Security Resources Board are hereby transferred to the Chairman of the National Security Resources Board, and the Board shall hereafter advise and consult with the Chairman with respect to such matters within his jurisdiction as he may request.

##### SEC. 2. VICE CHAIRMAN

There is hereby established the office of Vice Chairman of the National Security Resources Board. Such Vice Chairman shall (1) be an additional member of the National Security Resources Board, (2) be appointed from civilian life by the President, by and with the advice and consent of the Senate, (3) receive compensation at the rate of \$16,000 per annum, and (4) perform such of the duties of the Chairman as the Chairman shall designate.

##### SEC. 3. PERFORMANCE OF FUNCTIONS OF CHAIRMAN

The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the National Security Resources Board of any function of the Chairman.

#### MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 25 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. The plan transfers the function of the National Security Resources Board from the

Board to the Chairman of the Board and makes the Board advisory to the Chairman. The plan also provides for a Vice Chairman, appointed by the President and confirmed by the Senate.

The function assigned to the National Security Resources Board by the National Security Act of 1947 is "to advise the President concerning the coordination of military, industrial and civilian mobilization." Proper performance of this function requires action by the Board and its staff in two broad areas:

(1) The conduct of advance mobilization planning which identifies the problems which will arise and the measures necessary to meet these problems if and when the Nation moves from a peacetime into a wartime situation.

(2) The formulation of current policies and programs which will help the Nation achieve an adequate state of readiness against the eventuality of a future war.

The role assigned the National Security Resources Board is clearly one of staff assistance to the President. The Congress recently recognized this fact in its approval of Reorganization Plan No. 4 of 1949 which, pursuant to the specific recommendation of the Hoover Commission, placed the National Security Resources Board in the Executive Office of the President.

The accompanying reorganization plan is designed to make the National Security Resources Board a more effective instrument. Successful performance of the Board's mission requires a wide range of detailed study and analysis to cover all the major aspects of national mobilization. A committee of department heads or departmental representatives encounters some natural difficulties in providing supervision and leadership in such an extensive and detailed activity. The Chairman has the difficult task of exercising discretion as to which matters shall be submitted for Board approval. The departmental members of the Board cannot possibly supervise or approve the Board's extensive and detailed activities and yet, as Board members, must accept ultimate responsibility for all such activities. Likewise, the departmental members are encumbered by the difficulty of having to reach collective and speedy decisions on a great many matters for which they, as Board members, are responsible.

By vesting the functions of the Board in the Chairman, the difficulties of Board operation will be overcome. At the same time, the reorganization plan provides for the continued participation of the several departments and agencies in the task of mobilization planning. This is not only a matter of established policy but also a requirement of the National Security Act. The departments will continue to have representation on the Board. The Board, in an advisory relationship to the Chairman, will be a useful arrangement for obtaining the necessary participation of departments in mobilization planning and for coordination of their activity. It will enable the departments to keep abreast of the total range of security resources planning. Without reliance on the departments for the execution of much of the actual job of mobilization planning, coordination with the total range of governmental policies and objectives would be lost.

The Congress in passing the National Security Act Amendments of 1949 recognized the difficulty which exists when functions of staff advice and assistance are placed in a board-type agency. The National Security Act Amendments of 1949, in clarifying the role of the Chairman of the Munitions Board and the Research and Development Board, strengthened and increased the effectiveness of these staff agencies of the Secretary of Defense by providing for the exclusive exercise of responsibilities by the Chairman. This plan achieves the same objective for the National Security Resources Board.

The accompanying reorganization plan provides for a Vice Chairman appointed by the President and confirmed by the Senate. The tremendous responsibilities of the National Security Resources Board and the heavy workload on the Chairman fully warrant this. Providing the Chairman with a principal associate for

the exercise of his responsibilities is consistent with the usual practice in other agencies of the executive branch.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 25 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of a Vice Chairman of the National Security Resources Board. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in Reorganization Plan No. 25 may not in itself result in substantial immediate savings. However, the important objective is maximum effectiveness in security resources planning.

The security of this Nation requires that these steps be taken to enable security resources planning to move forward more effectively. It is for that reason that Reorganization Plan No. 25 is today submitted to the Congress. It is for that reason, and that reason alone, that I strongly urge congressional acceptance of Reorganization Plan No. 25.

HARRY S. TRUMAN.

THE WHITE HOUSE, May 9, 1950.

### REORGANIZATION PLAN NO. 3 OF 1953

Eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 2, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

## OFFICE OF DEFENSE MOBILIZATION

### SECTION 1. ESTABLISHMENT OF OFFICE

(a) There is hereby established in the Executive Office of the President a new agency which shall be known as the Office of Defense Mobilization, hereinafter referred to as the "Office."

(b) There shall be at the head of the Office a Director of the Office of Defense Mobilization, hereinafter referred to as the "Director," who shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate of \$22,500 per annum.

(c) There shall be in the Office a Deputy Director of the Office of Defense Mobilization, who shall be appointed by the President, by and with the advice and consent of the Senate, shall receive compensation at the rate of \$17,500 per annum, shall perform such functions as the Director shall designate, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

### SEC. 2. TRANSFER OF FUNCTIONS

There are hereby transferred to the Director:

(a) All functions of the Chairman of the National Security Resources Board, including his functions as a member of the National Security Council, but excluding the functions abolished by section 5(a) of this reorganization plan.

(b) All functions under the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), vested in the Secretaries of the Army, Navy, Air Force, and Interior or in any of them or in any combination of them, including the functions which were vested in the Army and Navy Munitions Board by the item No. (2) in section 6(a) of the said Act (60 Stat. 598) [former section 98e(a)(2) of this title], but excluding functions vested in the Secretary of the Interior by section 7 of said Act [former section 98f of this title].

(c) The functions vested in the Munitions Board by section 4(h) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714b(h)), and by section 204(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(e)).

(d) All functions now vested by any statute in the Director of Defense Mobilization or in the Office of Defense Mobilization provided for in Executive Order Numbered 10193 (15 F.R. 9031) [revoked by Ex. Ord. No. 10480, 18 F.R. 4939, formerly set out as a note under section 2153 of Appendix to this title].

### SEC. 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

(a) The Director may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Office, of any function of the Director, exclusive of the function of being a member of the National Security Council.

(b) When authorized by the Director, any function transferred to him by the provisions of this reorganization plan (exclusive of the function of being a member of the National Security Council) may be performed by the head of any agency of the executive branch of the Government or, subject to the direction and control of any such agency head, by such officers, employees, and organizational units under the jurisdiction of such agency head as such agency head may designate.

(c) In addition to the representatives who by virtue of the last sentence of section 2(a) of the Strategic and Critical Materials Stock Piling Act, as amended [former section 98a(a) of this title], and section 2 of this reorganization plan are designated to cooperate with the Director, the Secretary of Defense, the Secretary of the Interior, and the heads of such other agencies having functions regarding strategic or critical materials as the Director shall from time to time designate, shall each designate representatives who shall similarly cooperate with the Director.

### SEC. 4. RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There shall be transferred with the functions transferred by this reorganization plan from the Chairman of the National Security Resources Board and the Department of Defense, respectively, so much of the records, property, personnel, and unexpended balances of appropriations, allocations, and other funds, used, held, employed, available, or to be made available in connection with the said functions, as the Director shall determine to be required for the performance of the transferred functions by the Office, but all transfers from the Department of Defense under the foregoing provisions of this section shall be subject to the approval of the Secretary of Defense.

### SEC. 5. ABOLITION OF FUNCTIONS

(a) The functions of the Chairman of the National Security Resources Board under section 18 of the Universal Military Training and Service Act (50 U.S.C. App. 468), as affected by Reorganization Plan Numbered 25 of 1950 (64 Stat. 1280) [set out above], with respect to being consulted by and furnishing advice to the President as required by that section, are hereby abolished.

(b) So much of the functions of the Secretary of Defense under section 202(b) of the National Security Act of 1947, as amended [see 10 U.S.C. 113(b)], as consists of direction, authority, and control over functions transferred by this reorganization plan is hereby abolished.

(c) Any functions which were vested in the Army and Navy Munitions Board or which are vested in the Munitions Board with respect to serving as agent through which the Secretaries of the Army, Navy, Air Force, and Interior jointly act, under section 2(a) of the Strategic and Critical Materials Stock Piling Act, as amended [former section 98a of this title], are hereby abolished.

### SEC. 6. ABOLITION OF NATIONAL SECURITY RESOURCES BOARD

The National Security Resources Board (established by the National Security Act of 1947, 61 Stat. 499 [this

section)], including the offices of Chairman and Vice Chairman of the National Security Resources Board, is hereby abolished, and the Director shall provide for winding up any outstanding affairs of the said Board or offices not otherwise provided for in this reorganization plan.

[For subsequent history relating to Office of Defense Mobilization, see notes set out under this section.]

#### MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1953, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended.

The reorganization plan is designed to achieve two primary objectives: The first is to improve the organization of the Executive Office of the President; the second is to enable one Executive Office agency to exercise strong leadership in our national mobilization effort, including both current defense activities and readiness for any future national emergency.

The National Security Resources Board was established by the National Security Act of 1947 to advise the President concerning various aspects of future military, industrial, and civilian mobilization. The areas of responsibility assigned to the Board included the use of national and industrial resources for military and civilian needs; the sufficiency of productive facilities; the strategic relocation of industries; the mobilization and maximum utilization of manpower; and the maintenance and stabilization of the civilian economy.

The vigorous and efficient discharge of these vital functions is not well served by the simultaneous existence in the Executive Office of the President of the National Security Resources Board (charged with planning for the future) and the present Office of Defense Mobilization (charged with programs of the present). The progress of the current mobilization effort has made plain how artificial is the present separation of these functions.

Both functions should now be combined into one defense mobilization agency. Accordingly, the reorganization plan would create in the Executive Office of the President a new agency, to be known as the Office of Defense Mobilization. It would transfer to the new Office the functions of the Chairman of the National Security Resources Board and abolish that Board, including the offices of Chairman and Vice Chairman.

The reorganization plan also transfers to the new agency the statutory functions of the present Office of Defense Mobilization. These are of a minor nature, the major functions of the present Office of Defense Mobilization having been delegated to it by the President, principally under the Defense Production Act of 1950, as amended. It is my intention to transfer the latter functions to the new agency by Executive order, and to abolish the Office of Defense Mobilization established by Executive Order No. 10193. There will thus result a new agency which combines the activities of the National Security Resources Board and both the statutory and delegated functions of the heretofore existing Office of Defense Mobilization.

The proposed plan would also reorganize various activities relating to the stockpiling of strategic and critical materials. Those activities are principally provided for in the Strategic and Critical Materials Stock Piling Act, as amended. It has become increasingly apparent that the policy and program aspects of stockpiling are an integral part of mobilization planning. They should not be administered separately from plant expansion, conservation of materials, and materials procurement under the Defense Production Act of 1950, or from the duties placed in the National Security Resources Board by the National Security Act of 1947. Therefore, the reorganization plan would transfer to the Director of the new Office of Defense Mobilization responsibility for major stockpiling actions, including the determination of the nature and quantities of materials to be stockpiled. In the main, these functions

are transferred from the Secretaries of the Army, Navy, and Air Force (acting jointly through the agency of the Munitions Board) and the Secretary of the Interior. The duties of the Administrator of General Services regarding the purchase of strategic and critical materials and the management of stockpiles are not affected by the reorganization plan, except that he will receive his directions, under the plan, from the Director of the Office of Defense Mobilization instead of from the Department of Defense.

This transfer of stockpiling functions will correct the present undesirable confusion of responsibilities. The functions of the heads of the military departments of the Department of Defense and the Secretary of the Interior under the Strategic and Critical Materials Stock Piling Act, as amended, are at present in considerable measure subject to other authority of delegates of the President springing from the Defense Production Act of 1950, as amended. The allocation and distribution of scarce materials among essential civilian and military activities and the continued maintenance of adequate stockpiles of strategic and critical materials are of major current importance. The reorganization plan will make possible more effective coordination and close control over the Government's whole stockpile program. It will speed decisions. It can result in significant economies.

The Department of Defense will, of course, continue to be responsible for presenting the needs of the military services. That Department and the Department of the Interior are specifically designated in the plan as additional agencies which shall appoint representatives to cooperate with the Director of the Office of Defense Mobilization in determining which materials are strategic and critical and how much of them is to be purchased. Final authority with regard to such determination will, however, be in the Director of the Office of Defense Mobilization.

Section 5(a) of the reorganization plan withholds from transfer to the Director and abolishes the functions of the Chairman of the National Security Resources Board with regard to being consulted by and furnishing advice to the President concerning the placing of orders of mandatory precedence for articles or materials for the use of the armed forces of the United States or for the use of the Atomic Energy Commission, and with regard to determining that a plant, mine, or other facility can be readily converted to the production or furnishing of such articles or materials. These abolished functions were vested in the National Security Resources Board by section 18 of the Selective Service Act of 1948 (later renamed as the Universal Military Training and Service Act) and were transferred to the Chairman of that Board by Reorganization Plan No. 25 of 1950. The practical effect of this abolition is to obviate a statutory mandate that the President consult and advise with another officer of the executive branch of the Government.

Section 5(b) of the reorganization plan abolishes the direction, authority, and control of the Secretary of Defense over functions transferred from the Department of Defense by the reorganization plan. The Secretary's functions in this regard are provided for in section 202(b) of the National Security Act of 1947, as amended (5 U.S.C. 171a(b)) [see 10 U.S.C. 113(b)].

Section 5(c) of the reorganization plan abolishes any functions which were vested in the Army and Navy Munitions Board or which are vested in the Munitions Board with respect to serving as the agent through which the Secretaries of the Army, Navy, Air Force, and the Interior jointly act in determining which materials are strategic and critical under the provisions of the Strategic and Critical Materials Stock Piling Act, as amended, and the quality and quantities of such materials to be stockpiled. These abolished functions are provided for in section 2(a) of the Strategic and Critical Materials Stock Piling Act, as amended.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 3 of 1953 is necessary to accomplish one or

more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that by reason of these reorganizations it is necessary to include in the reorganization plan provisions for the appointment and compensation of a Director and a Deputy Director of the Office of Defense Mobilization. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers of the executive branch of the Government.

The reorganization plan will permit better organization and management of the Federal programs relating to materials and requirements and will thus help to achieve the maximum degree of mobilization readiness at the least possible cost. It is not practicable, however, to itemize, in advance of actual experience, the reductions of expenditures to be brought about by the taking effect of the reorganizations included in Reorganization Plan No. 3 of 1953.

I urge that the Congress allow the proposed reorganization plan to become effective.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, April 2, 1953.

#### EXECUTIVE ORDER No. 9905

Ex. Ord. No. 9905, Nov. 13, 1947, 12 F.R. 7613, as amended by Ex. Ord. No. 9931, Feb. 19, 1948, 13 F.R. 763, provided for membership of National Security Resources Board and defined functions, duties and authority of Chairman of Board.

#### EXECUTIVE ORDER No. 10169

Ex. Ord. No. 10169, Oct. 11, 1950, 15 F.R. 6901, which provided for a National Advisory Committee on Mobilization Policy, was revoked by Ex. Ord. No. 10480, Aug. 14, 1953, 18 F.R. 4939, formerly set out under section 2153 of the Appendix to this title.

#### EXECUTIVE ORDER No. 10421

Ex. Ord. No. 10421, Dec. 31, 1952, 18 F.R. 57, as amended by Ex. Ord. No. 10438, Mar. 13, 1953, 18 F.R. 1491; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which related to physical security of defense facilities, was revoked by Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out under section 5195 of Title 42, The Public Health and Welfare.

#### EXECUTIVE ORDER No. 10438

Ex. Ord. No. 10438, Mar. 13, 1953, 18 F.R. 1491, which related to transfer of functions to Director of Defense Mobilization, was superseded by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, formerly set out under section 5195 of Title 42, The Public Health and Welfare.

### § 404a. Annual national security strategy report

#### (a) Transmittal to Congress

(1) The President shall transmit to Congress each year a comprehensive report on the national security strategy of the United States (hereinafter in this section referred to as a "national security strategy report").

(2) The national security strategy report for any year shall be transmitted on the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31.

#### (b) Contents

Each national security strategy report shall set forth the national security strategy of the United States and shall include a comprehensive description and discussion of the following:

(1) The worldwide interests, goals, and objectives of the United States that are vital to the national security of the United States.

(2) The foreign policy, worldwide commitments, and national defense capabilities of the United States necessary to deter aggression and to implement the national security strategy of the United States.

(3) The proposed short-term and long-term uses of the political, economic, military, and other elements of the national power of the United States to protect or promote the interests and achieve the goals and objectives referred to in paragraph (1).

(4) The adequacy of the capabilities of the United States to carry out the national security strategy of the United States, including an evaluation of the balance among the capabilities of all elements of the national power of the United States to support the implementation of the national security strategy.

(5) Such other information as may be necessary to help inform Congress on matters relating to the national security strategy of the United States.

#### (c) Classified and unclassified form

Each national security strategy report shall be transmitted in both a classified and an unclassified form.

(July 26, 1947, ch. 343, title I, § 108, formerly § 104, as added Oct. 1, 1986, Pub. L. 99-433, title VI, § 603(a)(1), 100 Stat. 1074; renumbered § 108, Oct. 24, 1992, Pub. L. 102-496, title VII, § 705(a)(2), 106 Stat. 3190.)

NATIONAL COMMISSION ON THE FUTURE ROLE OF UNITED STATES NUCLEAR WEAPONS, PROBLEMS OF COMMAND, CONTROL, AND SAFETY OF SOVIET NUCLEAR WEAPONS, AND REDUCTION OF NUCLEAR WEAPONS

Pub. L. 102-172, title VIII, § 8132, Nov. 26, 1991, 105 Stat. 1208, provided for establishment of a National Commission which was to submit to Congress, not later than May 1, 1993, a final report containing an assessment and recommendations regarding role of, and requirements for, nuclear weapons in security strategy of United States as result of significant changes in former Warsaw Pact, former Soviet Union, and Third World, including possibilities for international cooperation with former Soviet Union regarding such problems, and safeguards to protect against accidental or unauthorized use of nuclear weapons, further directed Commission to obtain study from National Academy of Sciences on these matters, further authorized establishment of joint working group comprised of experts from governments of United States and former Soviet Union which was to meet on regular basis and provide recommendations regarding these matters, and further provided for composition of Commission as well as powers, procedures, personnel matters, appropriations, and termination of Commission upon submission of its final report.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 113, 2501.

### § 404b. Multiyear national foreign intelligence program

#### (a) Annual submission of multiyear national foreign intelligence program

The Director of Central Intelligence shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives and the Select Committee on Intelligence of the Senate and the Permanent

Select Committee on Intelligence of the House of Representatives each year a multiyear national foreign intelligence program plan reflecting the estimated expenditures and proposed appropriations required to support that program. Any such multiyear national foreign intelligence program plan shall cover the fiscal year with respect to which the budget is submitted and at least four succeeding fiscal years.

**(b) Time of submission**

The Director shall submit the report required by subsection (a) of this section each year at or about the same time that the budget is submitted to Congress pursuant to section 1105(a) of title 31.

**(c) Consistency with budget estimates**

The Director of Central Intelligence and the Secretary of Defense shall ensure that the estimates referred to in subsection (a) of this section are consistent with the budget estimates submitted to Congress pursuant to section 1105(a) of title 31 for the fiscal year concerned and with the estimated expenditures and proposed appropriations for the multiyear defense program submitted pursuant to section 114a<sup>1</sup> of title 10.

(Pub. L. 101-510, div. A, title XIV, §1403, Nov. 5, 1990, 104 Stat. 1675.)

REFERENCES IN TEXT

Section 114a of title 10, referred to in subsec. (c), was renumbered section 221 of title 10 by Pub. L. 102-484, div. A, title X, §1002(c)(1), Oct. 23, 1992, 106 Stat. 2480.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1991, and not as part of the National Security Act of 1947 which comprises this chapter.

CHANGE OF NAME

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

**§ 404c. Annual report on United States security arrangements and commitments with other nations**

**(a) Report requirements**

The President shall submit to the Committees on Armed Services and on Foreign Affairs of the House of Representatives and the Committees on Armed Services and Foreign Relations of the Senate each year a report (in both classified and unclassified form) on United States security arrangements with, and commitments to, other nations.

**(b) Matters to be included**

The President shall include in each such report the following:

(1) A description of—

(A) each security arrangement with, or commitment to, other nations, whether based upon (i) a formal document (including a mutual defense treaty, a pre-positioning arrangement or agreement, or an access agreement), or (ii) an expressed policy; and

(B) the historical origins of each such arrangement or commitment.

(2) An evaluation of the ability of the United States to meet its commitments based on the projected reductions in the defense structure of the United States.

(3) A plan for meeting each of those commitments with the force structure projected for the future.

(4) An assessment of the need to continue, modify, or discontinue each of those arrangements and commitments in view of the changing international security situation.

**(c) Deadline for report**

(1) Except as provided in paragraph (2), the President shall submit the report required by subsection (a) of this section not later than February 1 of each year.

(2) In the case of the report required to be submitted in 1991, the evaluation, plan, and assessment referred to in paragraphs (2), (3), and (4) of subsection (b) of this section may be submitted not later than May 1, 1991.

(Pub. L. 101-510, div. A, title XIV, §1457, Nov. 5, 1990, 104 Stat. 1696.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1991, and not as part of the National Security Act of 1947 which comprises this chapter.

CHANGE OF NAME

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

Committee on Foreign Affairs of House of Representatives changed to Committee on International Relations of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

**§ 404d. Annual report on intelligence community activities**

**(a) In general**

The Director of Central Intelligence shall submit to Congress an annual report on the activities of the intelligence community. The annual report under this section shall be unclassified.

**(b) Matters to be covered in annual report**

Each report under this section shall describe—

(1) the activities of the intelligence community during the preceding fiscal year, including significant successes and failures that can be described in an unclassified manner; and

(2) the areas of the world and the issues that the Director expects will require increased or unusual attention from the intelligence community during the next fiscal year.

**(c) Time for submission**

The report under this section for any year shall be submitted at the same time that the President submits the budget for the next fiscal year pursuant to section 1105 of title 31.

(July 26, 1947, ch. 343, title I, §109, as added Dec. 3, 1993, Pub. L. 103-178, title III, §304(a), 107 Stat. 2034.)

<sup>1</sup> See References in Text note below.

SUBCHAPTER II—MISCELLANEOUS AND  
CONFORMING PROVISIONS

**§ 405. Advisory committees; appointment; compensation of part-time personnel; applicability of other laws**

(a) The Director of the Federal Emergency Management Agency, the Director of Central Intelligence, and the National Security Council, acting through its Executive Secretary, are authorized to appoint such advisory committees and to employ, consistent with other provisions of this Act, such part-time advisory personnel as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Retired members of the uniformed services employed by the Director of Central Intelligence who hold no other office or position under the United States for which they receive compensation, other members of such committees and other part-time advisory personnel so employed may serve without compensation or may receive compensation at a daily rate not to exceed the daily equivalent of the rate of pay in effect for grade GS-18 of the General Schedule established by section 5332 of title 5, as determined by the appointing authority.

(b) Service of an individual as a member of any such advisory committee, or in any other part-time capacity for a department or agency hereunder, shall not be considered as service bringing such individual within the provisions of section 203, 205, or 207 of title 18, unless the act of such individual, which by such section is made unlawful when performed by an individual referred to in such section, is with respect to any particular matter which directly involves a department or agency which such person is advising or in which such department or agency is directly interested.

(July 26, 1947, ch. 343, title III, § 303, 61 Stat. 507; Aug. 10, 1949, ch. 412, § 10(c), 63 Stat. 585; Sept. 3, 1954, ch. 1263, § 8, 68 Stat. 1228; Aug. 10, 1956, ch. 1041, § 53(b), 68A Stat. 676, 684; 1958 Reorg. Plan No. 1, § 2, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799; Oct. 21, 1968, Pub. L. 90-608, ch. IV, § 402, 82 Stat. 1194; Ex. Ord. No. 11725, § 3, eff. June 29, 1973, 38 F.R. 17175; Ex. Ord. No. 12148, §§ 1-103, 4-102, July 20, 1979, 44 F.R. 43239; Dec. 4, 1981, Pub. L. 97-89, title V, § 504, 95 Stat. 1153; Sept. 29, 1988, Pub. L. 100-453, title V, § 503, 102 Stat. 1910.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-453 substituted “Retired members of the uniformed services employed by the Director of Central Intelligence who hold no other office or position under the United States for which they receive compensation, other” for “Other” in last sentence.

1981—Subsec. (a). Pub. L. 97-89, § 504(a), substituted “at a daily rate not to exceed the daily equivalent of the rate of pay in effect for grade GS-18 of the General Schedule established by section 5332 of title 5” for “at a rate not to exceed \$50 for each day of service”.

Subsec. (b). Pub. L. 97-89, § 504(b), substituted “section 203, 205, or 207 of title 18” for “section 281, 283, or 284 of title 18”.

1956—Subsec. (a). Act Aug. 10, 1956, struck out “Secretary of Defense, the” after “The”.

1954—Act Sept. 3, 1954, amended section generally, substituting the “Director of the Office of Defense Mobilization” for “Chairman of the National Security Resources Board” in subsec. (a), and substituting “sections 281, 283, or 284 of title 18” for “sections 198 or 203 of title 18 or section 119(e) of title 41”.

1949—Subsec. (a). Act Aug. 10, 1949, inserted reference to National Security Council, and increased per diem payable to consultants from \$35 to \$50.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-89 effective Oct. 1, 1981, see section 806 of Pub. L. 97-89, set out as an Effective Date note under section 1601 of Title 10, Armed Forces.

TRANSFER OF FUNCTIONS

“Director of the Federal Emergency Management Agency” substituted in subsec. (a) for “Director of the Office of Defense Mobilization”. See note set out under section 404 of this title.

National Security Council transferred to Executive Office of President by Reorg. Plan No. 4 of 1949, eff. Aug. 19, 1949, 14 F.R. 5227, 63 Stat. 1067. See note set out under section 402 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

**§ 406. Omitted**

CODIFICATION

Section, act June 24, 1948, ch. 632, 62 Stat. 648, which related to authority of former Chairman of National Security Resources Board to appoint advisory committee members and part-time advisory personnel at rates up to \$50 per day, has been superseded by section 405(a) of this title.

**§ 407. Study or plan of surrender; use of appropriations**

No part of the funds appropriated in any act shall be used to pay (1) any person, firm, or cor-

poration, or any combinations of persons, firms, or corporations, to conduct a study or to plan when and how or in what circumstances the Government of the United States should surrender this country and its people to any foreign power, (2) the salary or compensation of any employee or official of the Government of the United States who proposes or contracts or who has entered into contracts for the making of studies or plans for the surrender by the Government of the United States of this country and its people to any foreign power in any event or under any circumstances.

(Pub. L. 85-766, ch. XVI, § 1602, Aug. 27, 1958, 72 Stat. 884.)

#### CODIFICATION

Section was enacted as part of the Supplemental Appropriation Act, 1959, and not as part of the National Security Act of 1947 which comprises this chapter.

### § 408. Applicable laws

Except to the extent inconsistent with the provisions of this Act, the provisions of title 4 of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense.

(July 26, 1947, ch. 343, title II, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579.)

#### REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

Title 4 of the Revised Statutes, referred to in text, was entitled “Provisions Applicable to All Executive Departments”, and consisted of R.S. §§ 158 to 198. For provisions of the Code derived from such title 4, see sections 101, 301, 303, 304, 503, 2952, 3101, 3106, 3341, 3345 to 3349, 5535, and 5536 of Title 5, Government Organization and Employees; section 207 of Title 18, Crimes and Criminal Procedure; sections 514 and 520 of Title 28, Judiciary and Judicial Procedure; section 3321 of Title 31, Money and Finance.

#### CODIFICATION

Section was formerly classified to section 171-1 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

### § 409. Definitions of military departments

(a) The term “Department of the Army” as used in this Act shall be construed to mean the Department of the Army at the seat of the government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Army.

(b) The term “Department of the Navy” as used in this Act shall be construed to mean the Department of the Navy at the seat of the government; the headquarters, United States Marine Corps; the entire operating forces of the United States Navy, including naval aviation, and of the United States Marine Corps, including the reserve components of such forces; all field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Department of the

Navy; and the United States Coast Guard when operating as a part of the Navy pursuant to law.

(c) The term “Department of the Air Force” as used in this Act shall be construed to mean the Department of the Air Force at the seat of the government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Air Force.

(July 26, 1947, ch. 343, title II, §§ 205(c), 206(a), 207(c), 61 Stat. 501, 502.)

#### REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

#### CODIFICATION

Section was formerly classified to section 171-2 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

Prior to the enactment of Title 10, Armed Forces, by act Aug. 10, 1956, subsecs. (a), (b), and (c) of this section were classified to sections 181-1(c), 411a(a), and 626(c), respectively, of former Title 5.

### § 410. “Function” and “Department of Defense” defined

(a) As used in this Act, the term “function” includes functions, powers, and duties.

(b) As used in this Act, the term “Department of Defense” shall be deemed to include the military departments of the Army, the Navy, and the Air Force, and all agencies created under title II of this Act.

(July 26, 1947, ch. 343, title III, § 308, 61 Stat. 509; Aug. 10, 1949, ch. 412, § 12(e), 63 Stat. 591.)

#### PARTIAL REPEAL

*Section 307 of Pub. L. 87-651, title III, Sept. 7, 1962, 76 Stat. 526, repealed subsection (a) of this section less its applicability to sections 401, 402, 403, 404, and 405 of this title.*

#### REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

Title II of this Act, referred to in subsec. (b), means title II of the National Security Act of 1947, act July 26, 1947, ch. 343, 61 Stat. 499, as amended, which enacted sections 408 and 409 of this title and sections 171, 171-1, 171-2, 171a, 171c, 171d, and 171e to 171i of former Title 5, Executive Department and Government Officers and Employees, amended sections 1 and 11 of former Title 5 and section 1517 of Title 15, Commerce and Trade, and enacted a provision formerly set out as a note under section 135 [now 137] of Title 10, Armed Forces. Section 171 of former Title 5 was repealed by Pub. L. 87-651, title III, § 307, Sept. 7, 1962, and reenacted in part as section 131 of Title 10. Sections 171e, 171f, and 171g of former Title 5 were repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and reenacted as sections 171, 141, 142, and 143 of Title 10, respectively. Sections 171-1 and 171-2 of former Title 5 were transferred to sections 408 and 409 of this title, respectively. For complete classification of title II to the Code, see Tables.

#### CODIFICATION

Section was formerly classified to section 171n of Title 5 prior to the general revision and enactment of



Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378.

#### AMENDMENTS

1949—Subsec. (b). Act Aug. 10, 1949, substituted definition of “Department of Defense” for definition of “budget program”.

### § 411. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act (other than the provisions and purposes of sections 102, 103, 104, 105 [50 U.S.C. 403, 403-3, 403-4, 403-5] and titles V, VI, and VII [50 U.S.C. 413 et seq., 421 et seq., 431 et seq.]).

(July 26, 1947, ch. 343, title III, §307, 61 Stat. 509; Dec. 3, 1993, Pub. L. 103-178, title III, §309, 107 Stat. 2036.)

#### REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. Titles V, VI, and VII of the Act are classified generally to subchapters III (§413 et seq.), IV (§421 et seq.), and V (§431 et seq.) of this chapter, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

#### CODIFICATION

Section was formerly classified to section 171m of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378.

#### AMENDMENTS

1993—Pub. L. 103-178 substituted “provisions and purposes of this Act (other than the provisions and purposes of sections 102, 103, 104, 105 and titles V, VI, and VII)” for “provisions and purposes of this Act”.

### § 412. Repealing and savings provisions

All laws, orders, and regulations inconsistent with the provisions of this title are repealed insofar as they are inconsistent with the powers, duties, and responsibilities enacted hereby: *Provided*, That the powers, duties, and responsibilities of the Secretary of Defense under this title shall be administered in conformance with the policy and requirements for administration of budgetary and fiscal matters in the Government generally, including accounting and financial reporting, and that nothing in this title shall be construed as eliminating or modifying the powers, duties, and responsibilities of any other department, agency, or officer of the Government in connection with such matters, but no such department, agency, or officer shall exercise any such powers, duties, or responsibilities in a manner that will render ineffective the provisions of this title.

(July 26, 1947, ch. 343, title IV, §411, as added Aug. 10, 1949, ch. 412, §11, 63 Stat. 585.)

#### REFERENCES IN TEXT

This title, referred to in text, means title IV of act July 26, 1947, ch. 343, as added Aug. 10, 1949, ch. 412, §11, 63 Stat. 585, which enacted section 412 of this title and sections 172, 172a to 172d, and 172f to 172j of former Title 5, Executive Departments and Government Officers and Employees, and amended section 172e of former Title 5

and section 72 of former Title 31, Money and Finance. Section 172 of former Title 5 was repealed by Pub. L. 87-651, title III, §307, Sept. 7, 1962, 76 Stat. 526, and reenacted as section 136 [now 138] of Title 10, Armed Forces. Section 172a of former Title 5 was repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641, and reenacted as sections 3014, 5061, and 8014 of Title 10. Sections 172b to 172d and 172f to 172h of former Title 5 were repealed by Pub. L. 87-651, title III, §307, Sept. 7, 1962, 76 Stat. 526, and reenacted as sections 2203, 2204, 2208, 2207, 126, and 2206 of Title 10, respectively. Section 172i of former Title 5 was repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641, and reenacted as section 2701 of Title 10. Section 172j, of former Title 5 was transferred to section 412 of this title. For complete classification of title IV to the Code, see Tables.

#### CODIFICATION

Section was formerly classified to section 172j of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378.

### SUBCHAPTER III—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

#### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 403q, 411 of this title; title 10 sections 167, 421, 437, 2547; title 22 sections 2321m, 2776, 2780, 2799aa-1.

### § 413. General Congressional oversight provisions

#### (a) Reports to Congressional committees of intelligence activities and anticipated activities

(1) The President shall ensure that the intelligence committees are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activity as required by this subchapter.

(2) As used in this subchapter, the term “intelligence committees” means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(3) Nothing in this subchapter shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of any significant anticipated intelligence activity.

#### (b) Reports concerning illegal intelligence activities

The President shall ensure that any illegal intelligence activity is reported promptly to the intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity.

#### (c) Procedures for reporting information

The President and the intelligence committees shall each establish such procedures as may be necessary to carry out the provisions of this subchapter.

#### (d) Procedures to protect from unauthorized disclosure

The House of Representatives and the Senate shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information, and all information relating to intelligence sources and methods, that is furnished to the in-

telligence committees or to Members of Congress under this subchapter. Such procedures shall be established in consultation with the Director of Central Intelligence. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

**(e) Construction of authority conferred**

Nothing in this Act shall be construed as authority to withhold information from the intelligence committees on the grounds that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

**(f) "Intelligence activities" defined**

As used in this section, the term "intelligence activities" includes covert actions as defined in section 413b(e) of this title.

(July 26, 1947, ch. 343, title V, § 501, as added Aug. 14, 1991, Pub. L. 102-88, title VI, § 602(a)(2), 105 Stat. 441.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

PRIOR PROVISIONS

A prior section 413, act July 26, 1947, ch. 343, title V, § 501, as added Oct. 14, 1980, Pub. L. 96-450, title IV, § 407(b)(1), 94 Stat. 1981, related to Congressional oversight of intelligence activities, prior to repeal by Pub. L. 102-88, § 602(a)(2).

**§ 413a. Reporting of intelligence activities other than covert actions**

To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall—

(1) keep the intelligence committees fully and currently informed of all intelligence activities, other than a covert action (as defined in section 413b(e) of this title), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and any significant intelligence failure; and

(2) furnish the intelligence committees any information or material concerning intelligence activities, other than covert actions, which is within their custody or control, and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

(July 26, 1947, ch. 343, title V, § 502, as added Aug. 14, 1991, Pub. L. 102-88, title VI, § 602(a)(2), 105 Stat. 442.)

PRIOR PROVISIONS

A prior section 502 of act July 26, 1947, ch. 343, was renumbered section 504 and is classified to section 414 of this title.

FURNISHING OF INTELLIGENCE INFORMATION TO SENATE AND HOUSE SELECT COMMITTEES ON INTELLIGENCE

Section 405 of Pub. L. 102-88 provided that:

"(a) FURNISHING OF SPECIFIC INFORMATION.—In accordance with title V of the National Security Act of 1947 [50 U.S.C. 413 et seq.], the head of any department or agency of the United States involved in any intelligence activities which may pertain to United States military personnel listed as prisoner, missing, or unaccounted for in military actions shall furnish any information or documents in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the Permanent Select Committee on Intelligence of the House of Representatives or the Select Committee on Intelligence of the Senate.

"(b) ACCESS BY COMMITTEES AND MEMBERS OF CONGRESS.—In accordance with Senate Resolution 400, Ninety-Fourth Congress, and House Resolution 658, Ninety-Fifth Congress, the committees named in subsection (a) shall, upon request and under such regulations as the committees have prescribed to protect the classification of such information, make any information described in subsection (a) available to any other committee or any other Member of Congress and appropriately cleared staff."

**§ 413b. Presidential approval and reporting of covert actions**

**(a) Presidential findings**

The President may not authorize the conduct of a covert action by departments, agencies, or entities of the United States Government unless the President determines such an action is necessary to support identifiable foreign policy objectives of the United States and is important to the national security of the United States, which determination shall be set forth in a finding that shall meet each of the following conditions:

(1) Each finding shall be in writing, unless immediate action by the United States is required and time does not permit the preparation of a written finding, in which case a written record of the President's decision shall be contemporaneously made and shall be reduced to a written finding as soon as possible but in no event more than 48 hours after the decision is made.

(2) Except as permitted by paragraph (1), a finding may not authorize or sanction a covert action, or any aspect of any such action, which already has occurred.

(3) Each finding shall specify each department, agency, or entity of the United States Government authorized to fund or otherwise participate in any significant way in such action. Any employee, contractor, or contract agent of a department, agency, or entity of the United States Government other than the Central Intelligence Agency directed to participate in any way in a covert action shall be subject either to the policies and regulations of the Central Intelligence Agency, or to written policies or regulations adopted by such department, agency, or entity, to govern such participation.

(4) Each finding shall specify whether it is contemplated that any third party which is

not an element of, or a contractor or contract agent of, the United States Government, or is not otherwise subject to United States Government policies and regulations, will be used to fund or otherwise participate in any significant way in the covert action concerned, or be used to undertake the covert action concerned on behalf of the United States.

(5) A finding may not authorize any action that would violate the Constitution or any statute of the United States.

**(b) Reports to intelligence committees; production of information**

To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and entities of the United States Government involved in a covert action—

(1) shall keep the intelligence committees fully and currently informed of all covert actions which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including significant failures; and

(2) shall furnish to the intelligence committees any information or material concerning covert actions which is in the possession, custody, or control of any department, agency, or entity of the United States Government and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

**(c) Timing of reports; access to finding**

(1) The President shall ensure that any finding approved pursuant to subsection (a) of this section shall be reported to the intelligence committees as soon as possible after such approval and before the initiation of the covert action authorized by the finding, except as otherwise provided in paragraph (2) and paragraph (3).

(2) If the President determines that it is essential to limit access to the finding to meet extraordinary circumstances affecting vital interests of the United States, the finding may be reported to the chairmen and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, the majority and minority leaders of the Senate, and such other member or members of the congressional leadership as may be included by the President.

(3) Whenever a finding is not reported pursuant to paragraph (1) or (2) of this section,<sup>1</sup> the President shall fully inform the intelligence committees in a timely fashion and shall provide a statement of the reasons for not giving prior notice.

(4) In a case under paragraph (1), (2), or (3), a copy of the finding, signed by the President, shall be provided to the chairman of each intelligence committee. When access to a finding is limited to the Members of Congress specified in paragraph (2), a statement of the reasons for limiting such access shall also be provided.

<sup>1</sup> So in original. Probably should be “subsection.”

**(d) Changes in previously approved actions**

The President shall ensure that the intelligence committees, or, if applicable, the Members of Congress specified in subsection (c)(2) of this section, are notified of any significant change in a previously approved covert action, or any significant undertaking pursuant to a previously approved finding, in the same manner as findings are reported pursuant to subsection (c) of this section.

**(e) “Covert action” defined**

As used in this subchapter, the term “covert action” means an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly, but does not include—

(1) activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities;

(2) traditional diplomatic or military activities or routine support to such activities;

(3) traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or

(4) activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.

**(f) Prohibition on covert actions intended to influence United States political processes, etc.**

No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.

(July 26, 1947, ch. 343, title V, § 503, as added Aug. 14, 1991, Pub. L. 102-88, title VI, § 602(a)(2), 105 Stat. 442.)

**PRIOR PROVISIONS**

A prior section 503 of act July 26, 1947, ch. 343, was renumbered section 505 and is classified to section 415 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 413, 413a, 414 of this title.

**§ 414. Funding of intelligence activities**

**(a) Obligations and expenditures for intelligence or intelligence-related activity; prerequisites**

Appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(1) those funds were specifically authorized by the Congress for use for such activities; or

(2) in the case of funds from the Reserve for Contingencies of the Central Intelligence Agency and consistent with the provisions of section 413b of this title concerning any significant anticipated intelligence activity, the Director of Central Intelligence has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

(3) in the case of funds specifically authorized by the Congress for a different activity—

(A) the activity to be funded is a higher priority intelligence or intelligence-related activity;

(B) the need for funds for such activity is based on unforeseen<sup>1</sup> requirements; and

(C) the Director of Central Intelligence, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity;

(4) nothing in this subsection prohibits obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31.

**(b) Activities denied funding by Congress**

Funds available to an intelligence agency may not be made available for any intelligence or intelligence-related activity for which funds were denied by the Congress.

**(c) Presidential finding required for expenditure of funds on covert action**

No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government may be expended, or may be directed to be expended, for any covert action, as defined in section 413b(e) of this title, unless and until a Presidential finding required by subsection (a) of section 413b of this title has been signed or otherwise issued in accordance with that subsection.

**(d) Report to Congressional committees required for expenditure of nonappropriated funds for intelligence activity**

(1) Except as otherwise specifically provided by law, funds available to an intelligence agency that are not appropriated funds may be obligated or expended for an intelligence or intelligence-related activity only if those funds are used for activities reported to the appropriate congressional committees pursuant to procedures which identify—

(A) the types of activities for which nonappropriated funds may be expended; and

(B) the circumstances under which an activity must be reported as a significant anticipated intelligence activity before such funds can be expended.

(2) Procedures for purposes of paragraph (1) shall be jointly agreed upon by the intelligence committees and, as appropriate, the Director of Central Intelligence or the Secretary of Defense.

**(e) Definitions**

As used in this section—

(1) the term “intelligence agency” means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the term “appropriate congressional committees” means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives and the Select Committee on Intel-

ligence and the Committee on Appropriations of the Senate; and

(3) the term “specifically authorized by the Congress” means that—

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

(July 26, 1947, ch. 343, title V, §504, formerly §502, as added Dec. 4, 1985, Pub. L. 99-169, title IV, §401(a), 99 Stat. 1004; renumbered §504 and amended Aug. 14, 1991, Pub. L. 102-88, title VI, §§602(a)(1), (c)(1), 603, 105 Stat. 441, 444.)

AMENDMENTS

1991—Subsec. (a)(2). Pub. L. 102-88, §602(c)(1), substituted “section 413b” for “section 413”.

Subsecs. (c) to (e). Pub. L. 102-88, §603, added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

LIMITATION ON TRANSFER OF FUNDS BETWEEN CIA AND DEPARTMENT OF DEFENSE; CONGRESSIONAL NOTIFICATION REQUIRED

Pub. L. 103-139, title VIII, §8107, Nov. 11, 1993, 107 Stat. 1464, provided that: “During the current fiscal year and thereafter, no funds may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.” Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-396, title IX, §9014, Oct. 6, 1992, 106 Stat. 1903.

Pub. L. 102-172, title VIII, §8014, Nov. 26, 1991, 105 Stat. 1174.

Pub. L. 101-511, title VIII, §8015, Nov. 5, 1990, 104 Stat. 1878.

Pub. L. 101-165, title IX, §9022, Nov. 21, 1989, 103 Stat. 1134.

Pub. L. 100-463, title VIII, §8035, Oct. 1, 1988, 102 Stat. 2270-23.

Pub. L. 100-202, §101(b) [title VIII, §8037], Dec. 22, 1987, 101 Stat. 1329-43, 1329-68.

SENSE OF CONGRESS REGARDING DISCLOSURE OF ANNUAL INTELLIGENCE BUDGET

Pub. L. 102-496, title III, §303, Oct. 24, 1992, 106 Stat. 3183, provided that: “It is the sense of Congress that, beginning in 1993, and in each year thereafter, the aggregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner.” Similar provisions were contained in the following prior appropriation act: Pub. L. 102-183, title VII, §701, Dec. 4, 1991, 105 Stat. 1270.

LIMITATION OF EXPENDITURE OF FUNDS APPROPRIATED FOR DEPARTMENT OF DEFENSE INTELLIGENCE PROGRAMS

Pub. L. 102-172, title VIII, §8089, Nov. 26, 1991, 105 Stat. 1193, provided that: “During the current fiscal

<sup>1</sup> So in original. Probably should be “unforeseen”.

year and hereafter, none of the funds appropriated for intelligence programs to the Department of Defense which are transferred to another Federal agency for execution shall be expended by the Department of Defense in any fiscal year in excess of amounts required for expenditure during such fiscal year by the Federal agency to which such funds are transferred."

ENHANCED SECURITY COUNTERMEASURES CAPABILITIES;  
APPLICATION OF SECTION

Section 401(c) of Pub. L. 99-169 provided that: "The amendment made by section 401(a) of this Act [enacting this section] shall not apply with respect to funds appropriated to the Director of Central Intelligence under the heading 'ENHANCED SECURITY COUNTERMEASURES CAPABILITIES' in the Supplemental Appropriations Act, 1985 (Public Law 99-88) [Aug. 15, 1985, 99 Stat. 311]."

**§ 415. Notice to Congress of certain transfers of defense articles and defense services**

(a)(1) The transfer of a defense article or defense service, or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services, exceeding \$1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant anticipated intelligence activity for the purpose of this subchapter.

(2) Paragraph (1) does not apply if—

(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States Government in conjunction with an intelligence or intelligence-related activity); or

(B) the transfer—

(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2301 et seq.], the Arms Export Control Act [22 U.S.C. 2751 et seq.], title 10 (including a law enacted pursuant to section 7307(a) of that title), or the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 471 et seq.], and

(ii) is not being made in conjunction with an intelligence or intelligence-related activity.

(3) An intelligence agency may not transfer any defense articles or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.

(b) As used in this section—

(1) the term "intelligence agency" means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the terms "defense articles" and "defense services" mean the items on the United States Munitions List pursuant to section 38 of the Arms Export Control Act [22 U.S.C. 2778] (22 CFR part 121);

(3) the term "transfer" means—

(A) in the case of defense articles, the transfer of possession of those articles; and

(B) in the case of defense services, the provision of those services; and

(4) the term "value" means—

(A) in the case of defense articles, the greater of—

(i) the original acquisition cost to the United States Government, plus the cost of improvements or other modifications made by or on behalf of the Government; or

(ii) the replacement cost; and

(B) in the case of defense services, the full cost to the Government of providing the services.

(July 26, 1947, ch. 343, title V, §505, formerly §503, as added Oct. 27, 1986, Pub. L. 99-569, title VI, §602(a), 100 Stat. 3203; renumbered §505 and amended Aug. 14, 1991, Pub. L. 102-88, title VI, §§602(a)(1), (c)(2), 604, 105 Stat. 441, 444, 445; Nov. 30, 1993, Pub. L. 103-160, div. A, title VIII, §828(d)(1), 107 Stat. 1715.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(2)(B)(i), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended. Part II of the Act is classified generally to subchapter II (§2301 et seq.) of chapter 32 of Title 22, Foreign Relations and Intercourse. For provisions deeming references to subchapter II to exclude parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II, see section 202(b) of Pub. L. 92-228, set out as a note under section 2346 of Title 22, and sections 2348c and 2349aa-5 of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Arms Export Control Act, referred to in subsec. (a)(2)(B)(i), is Pub. L. 90-269, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a)(2)(B)(i), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that Act relating to management and disposal of government property are classified to chapter 10 (§471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

AMENDMENTS

1993—Subsec. (a)(2)(B)(i). Pub. L. 103-160 substituted "section 7307(a)" for "section 7307(b)(1)".

1991—Subsec. (a)(1). Pub. L. 102-88 inserted ", or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services," after "service" and substituted "this subchapter" for "section 413 of this title".

**SUBCHAPTER IV—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION**

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 411 of this title.

**§ 421. Protection of identities of certain United States undercover intelligence officers, agents, informants, and sources**

**(a) Disclosure of information by persons having or having had access to classified information that identifies covert agent**

Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified in-

formation, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than \$50,000 or imprisoned not more than ten years, or both.

**(b) Disclosure of information by persons who learn identity of covert agents as result of having access to classified information**

Whoever, as a result of having authorized access to classified information, learns the identity of a covert agent and intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than \$25,000 or imprisoned not more than five years, or both.

**(c) Disclosure of information by persons in course of pattern of activities intended to identify and expose covert agents**

Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined not more than \$15,000 or imprisoned not more than three years, or both.

(July 26, 1947, ch. 343, title VI, § 601, as added June 23, 1982, Pub. L. 97-200, § 2(a), 96 Stat. 122.)

**SHORT TITLE**

For short title of this subchapter as the "Intelligence Identities Protection Act of 1982", see section 1 of Pub. L. 97-200, set out as a Short Title of 1982 Amendment note under section 401 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 422, 424 of this title; title 5 section 8312; title 8 section 1101; title 18 section 3239; title 22 section 2778.

**§ 422. Defenses and exceptions**

**(a) Disclosure by United States of identity of covert agent**

It is a defense to a prosecution under section 421 of this title that before the commission of the offense with which the defendant is charged, the United States had publicly acknowledged or revealed the intelligence relationship to the United States of the individual the disclosure of whose intelligence relationship to the United States is the basis for the prosecution.

**(b) Conspiracy, misprision of felony, aiding and abetting, etc.**

(1) Subject to paragraph (2), no person other than a person committing an offense under sec-

tion 421 of this title shall be subject to prosecution under such section by virtue of section 2 or 4 of title 18 or shall be subject to prosecution for conspiracy to commit an offense under such section.

(2) Paragraph (1) shall not apply (A) in the case of a person who acted in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, or (B) in the case of a person who has authorized access to classified information.

**(c) Disclosure to select Congressional committees on intelligence**

It shall not be an offense under section 421 of this title to transmit information described in such section directly to the Select Committee on Intelligence of the Senate or to the Permanent Select Committee on Intelligence of the House of Representatives.

**(d) Disclosure by agent of own identity**

It shall not be an offense under section 421 of this title for an individual to disclose information that solely identifies himself as a covert agent.

(July 26, 1947, ch. 343, title VI, § 602, as added June 23, 1982, Pub. L. 97-200, § 2(a), 96 Stat. 122.)

**§ 423. Report**

**(a) Annual report by President to Congress on measures to protect identities of covert agents**

The President, after receiving information from the Director of Central Intelligence, shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives an annual report on measures to protect the identities of covert agents, and on any other matter relevant to the protection of the identities of covert agents.

**(b) Exemption from disclosure; date of initial submission**

The report described in subsection (a) of this section shall be exempt from any requirement for publication or disclosure. The first such report shall be submitted no later than February 1, 1983.

(July 26, 1947, ch. 343, title VI, § 603, as added June 23, 1982, Pub. L. 97-200, § 2(a), 96 Stat. 123.)

**§ 424. Extraterritorial jurisdiction**

There is jurisdiction over an offense under section 421 of this title committed outside the United States if the individual committing the offense is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence (as defined in section 1101(a)(20) of title 8).

(July 26, 1947, ch. 343, title VI, § 604, as added June 23, 1982, Pub. L. 97-200, § 2(a), 96 Stat. 123.)

**§ 425. Providing information to Congress**

Nothing in this subchapter may be construed as authority to withhold information from the

Congress or from a committee of either House of Congress.

(July 26, 1947, ch. 343, title VI, § 605, as added June 23, 1982, Pub. L. 97-200, § 2(a), 96 Stat. 123.)

#### § 426. Definitions

For the purposes of this subchapter:

(1) The term “classified information” means information or material designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

(2) The term “authorized”, when used with respect to access to classified information, means having authority, right, or permission pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency engaged in foreign intelligence or counterintelligence activities, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities.

(3) The term “disclose” means to communicate, provide, impart, transmit, transfer, convey, publish, or otherwise make available.

(4) The term “covert agent” means—

(A) an officer or employee of an intelligence agency or a member of the Armed Forces assigned to duty with an intelligence agency—

(i) whose identity as such an officer, employee, or member is classified information, and

(ii) who is serving outside the United States or has within the last five years served outside the United States; or

(B) a United States citizen whose intelligence relationship to the United States is classified information, and—

(i) who resides and acts outside the United States as an agent of, or informant or source of operational assistance to, an intelligence agency, or

(ii) who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation; or

(C) an individual, other than a United States citizen, whose past or present intelligence relationship to the United States is classified information and who is a present or former agent of, or a present or former informant or source of operational assistance to, an intelligence agency.

(5) The term “intelligence agency” means the Central Intelligence Agency, a foreign intelligence component of the Department of Defense, or the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation.

(6) The term “informant” means any individual who furnishes information to an intelligence agency in the course of a confidential

relationship protecting the identity of such individual from public disclosure.

(7) The terms “officer” and “employee” have the meanings given such terms by section 2104 and 2105, respectively, of title 5.

(8) The term “Armed Forces” means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(9) The term “United States”, when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(10) The term “pattern of activities” requires a series of acts with a common purpose or objective.

(July 26, 1947, ch. 343, title VI, § 606, as added June 23, 1982, Pub. L. 97-200, § 2(a), 96 Stat. 123.)

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

#### SUBCHAPTER V—PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY

##### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 411 of this title.

#### § 431. Exemption of certain operational files from search, review, publication, or disclosure

##### (a) Exemption by Director of Central Intelligence

Operational files of the Central Intelligence Agency may be exempted by the Director of Central Intelligence from the provisions of section 552 of title 5 (Freedom of Information Act) which require publication or disclosure, or search or review in connection therewith.

##### (b) “Operational files” defined

For the purposes of this title the term “operational files” means—

(1) files of the Directorate of Operations which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services;

(2) files of the Directorate for Science and Technology which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems; and

(3) files of the Office of Security which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources;

except that files which are the sole repository of disseminated intelligence are not operational files.

##### (c) Search and review for information

Notwithstanding subsection (a) of this section, exempted operational files shall continue to be subject to search and review for information concerning—

(1) United States citizens or aliens lawfully admitted for permanent residence who have

requested information on themselves pursuant to the provisions of section 552 of title 5 (Freedom of Information Act) or section 552a of title 5 (Privacy Act of 1974);

(2) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5 (Freedom of Information Act); or

(3) the specific subject matter of an investigation by the intelligence committees of the Congress, the Intelligence Oversight Board, the Department of Justice, the Office of General Counsel of the Central Intelligence Agency, the Office of Inspector General of the Central Intelligence Agency, or the Office of the Director of Central Intelligence for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity.

**(d) Information derived or disseminated from exempted operational files**

(1) Files that are not exempted under subsection (a) of this section which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) of this section shall not affect the exemption under subsection (a) of this section of the originating operational files from search, review, publication, or disclosure.

(3) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under subsection (a) of this section and which have been returned to exempted operational files for sole retention shall be subject to search and review.

**(e) Superseding of prior law**

The provisions of subsection (a) of this section shall not be superseded except by a provision of law which is enacted after October 15, 1984, and which specifically cites and repeals or modifies its provisions.

**(f) Allegation; improper withholding of records; judicial review**

Whenever any person who has requested agency records under section 552 of title 5 (Freedom of Information Act), alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, except that—

(1) in any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Central Intelligence Agency, such information shall be examined ex parte, in camera by the court;

(2) the court shall, to the fullest extent practicable, determine issues of fact based on sworn written submissions of the parties;

(3) when a complaint alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support

such allegation with a sworn written submission, based upon personal knowledge or otherwise admissible evidence;

(4)(A) when a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Central Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5 by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b) of this section; and

(B) the court may not order the Central Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under subparagraph (A) of this paragraph, unless the complainant disputes the Central Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence;

(5) in proceedings under paragraphs (3) and (4) of this subsection, the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36;

(6) if the court finds under this subsection that the Central Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Central Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5 (Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section; and

(7) if at any time following the filing of a complaint pursuant to this subsection the Central Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(July 26, 1947, ch. 343, title VII, §701, as added Oct. 15, 1984, Pub. L. 98-477, §2(a), 98 Stat. 2209.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (f)(5), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 4 of Pub. L. 98-477 provided that: "The amendments made by subsections (a) and (b) of section 2 [enacting this subchapter and amending section 552a of Title 5, Government Organization and Employees] shall be effective upon enactment of this Act [Oct. 15, 1984] and shall apply with respect to any requests for records, whether or not such request was made prior to such enactment, and shall apply to all civil actions not commenced prior to February 7, 1984."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 432 of this title.



### § 432. Decennial review of exempted operational files

#### (a) Review by Director of Central Intelligence

Not less than once every ten years, the Director of Central Intelligence shall review the exemptions in force under subsection (a) of section 431 of this title to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

#### (b) Consideration; historical value; public interest

The review required by subsection (a) of this section shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

#### (c) Judicial review

A complainant who alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with this section may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining (1) whether the Central Intelligence Agency has conducted the review required by subsection (a) of this section within ten years of enactment of this title or within ten years after the last review, and (2) whether the Central Intelligence Agency, in fact, considered the criteria set forth in subsection (b) of this section in conducting the required review.

(July 26, 1947, ch. 343, title VII, §702, as added Oct. 15, 1984, Pub. L. 98-477, §2(a), 98 Stat. 2211.)

#### EFFECTIVE DATE

Section effective Oct. 15, 1984, and applicable with respect to any request for records, whether or not such request was made prior to Oct. 15, 1984, and applicable to all civil actions not commenced prior to Feb. 7, 1984, see section 4 of Pub. L. 98-477, set out as a note under section 431 of this title.

#### DECLASSIFICATION AND RELEASE OF CIA INFORMATION OF HISTORICAL VALUE

Section 3 of Pub. L. 98-477 directed Director of Central Intelligence, in consultation with Archivist of the United States, Librarian of Congress, and appropriate representatives of historical discipline selected by Archivist, to prepare and submit report to Congress by June 1, 1985, on feasibility of conducting systematic review for declassification and release of Central Intelligence Agency information of historical value. Director was also required to prepare and submit four unclassified reports, one each six months beginning by Apr. 15, 1985, which were to include a description of the specific measures established by Director to improve processing of requests under section 552 of title 5, United States Code, current budgetary and personnel allocations for such processing, the number of such requests (i) received and processed during the preceding six months, and (ii) pending at time of submission of such report, and an estimate of current average response time for completing the processing of such requests.

### SUBCHAPTER VI—ACCESS TO CLASSIFIED INFORMATION

#### § 435. Procedures

(a) Not later than 180 days after October 14, 1994, the President shall, by Executive order or regulation, establish procedures to govern access to classified information which shall be binding upon all departments, agencies, and offices of the executive branch of Government. Such procedures shall, at a minimum—

(1) provide that, except as may be permitted by the President, no employee in the executive branch of Government may be given access to classified information by any department, agency, or office of the executive branch of Government unless, based upon an appropriate background investigation, such access is determined to be clearly consistent with the national security interests of the United States;

(2) establish uniform minimum requirements governing the scope and frequency of background investigations and reinvestigations for all employees in the executive branch of Government who require access to classified information as part of their official responsibilities;

(3) provide that all employees in the executive branch of Government who require access to classified information shall be required as a condition of such access to provide to the employing department or agency written consent which permits access by an authorized investigative agency to relevant financial records, other financial information, consumer reports, and travel records, as determined by the President, in accordance with section 436 of this title, during the period of access to classified information and for a period of three years thereafter;

(4) provide that all employees in the executive branch of Government who require access to particularly sensitive classified information, as determined by the President, shall be required, as a condition of maintaining access to such information, to submit to the employing department or agency, during the period of such access, relevant information concerning their financial condition and foreign travel, as determined by the President, as may be necessary to ensure appropriate security; and

(5) establish uniform minimum standards to ensure that employees in the executive branch of Government whose access to classified information is being denied or terminated under this subchapter are appropriately advised of the reasons for such denial or termination and are provided an adequate opportunity to respond to all adverse information which forms the basis for such denial or termination before final action by the department or agency concerned.

(b)(1) Subsection (a) of this section shall not be deemed to limit or affect the responsibility and power of an agency head pursuant to other law or Executive order to deny or terminate access to classified information if the national security so requires. Such responsibility and power may be exercised only when the agency head determines that the procedures prescribed

by subsection (a) of this section cannot be invoked in a manner that is consistent with the national security.

(2) Upon the exercise of such responsibility, the agency head shall submit a report to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(July 26, 1947, ch. 343, title VIII, § 801, as added Oct. 14, 1994, Pub. L. 103-359, title VIII, § 802(a), 108 Stat. 3435.)

#### EFFECTIVE DATE

Section 802(c) of Pub. L. 103-359 provided that: “The amendments made by subsections (a) and (b) [enacting this subchapter] shall take effect 180 days after the date of enactment of this Act [Oct. 14, 1994].”

#### COMMISSION ON PROTECTING AND REDUCING GOVERNMENT SECRECY

Pub. L. 103-236, title IX, Apr. 30, 1994, 108 Stat. 525, provided that:

##### “SEC. 901. SHORT TITLE.

“This title may be cited as the ‘Protection and Reduction of Government Secrecy Act’.

##### “SEC. 902. FINDINGS.

“The Congress makes the following findings:

“(1) During the Cold War an extensive secrecy system developed which limited public access to information and reduced the ability of the public to participate with full knowledge in the process of governmental decisionmaking.

“(2) In 1992 alone 6,349,532 documents were classified and approximately three million persons held some form of security clearance.

“(3) The burden of managing more than 6 million newly classified documents every year has led to tremendous administrative expense, reduced communication within the government and within the scientific community, reduced communication between the government and the people of the United States, and the selective and unauthorized public disclosure of classified information.

“(4) It has been estimated that private businesses spend more than \$14 billion each year implementing government mandated regulations for protecting classified information.

“(5) If a smaller amount of truly sensitive information were classified the information could be held more securely.

“(6) In 1970 a Task Force organized by the Defense Science Board and headed by Dr. Frederick Seitz concluded that ‘more might be gained than lost if our Nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information’.

“(7) The procedures for granting security clearances have themselves become an expensive and inefficient part of the secrecy system and should be closely examined.

“(8) A bipartisan study commission specially constituted for the purpose of examining the consequences of the secrecy system will be able to offer comprehensive proposals for reform.

##### “SEC. 903. PURPOSE.

“It is the purpose of this title to establish for a two-year period a Commission on Protecting and Reducing Government Secrecy—

“(1) to examine the implications of the extensive classification of information and to make recommendations to reduce the volume of information classified and thereby to strengthen the protection of legitimately classified information; and

“(2) to examine and make recommendations concerning current procedures relating to the granting of security clearances.

##### “SEC. 904. COMPOSITION OF THE COMMISSION.

“(a) ESTABLISHMENT.—To carry out the purpose of this title, there is established a Commission on Protecting and Reducing Government Secrecy (in this title referred to as the ‘Commission’).

“(b) COMPOSITION.—The Commission shall be composed of twelve members, as follows:

“(1) Four members appointed by the President, of whom two shall be appointed from the executive branch of the Government and two shall be appointed from private life.

“(2) Two members appointed by the Majority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

“(3) Two members appointed by the Minority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

“(4) Two members appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

“(5) Two members appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

“(c) CHAIRMAN.—The Commission shall elect a Chairman from among its members.

“(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairman or a majority of its members. Seven members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

“(e) APPOINTMENT OF MEMBERS; INITIAL MEETING.—(1) It is the sense of the Congress that members of the Commission should be appointed not later than 60 days after the date of enactment of this title [Apr. 30, 1994].

“(2) If after 60 days from the date of enactment of this Act seven or more members of the Commission have been appointed, those members who have been appointed may meet and select a Chairman who thereafter shall have authority to begin the operations of the Commission, including the hiring of staff.

##### “SEC. 905. FUNCTIONS OF THE COMMISSION.

“The functions of the Commission shall be—

“(1) to conduct, for a period of 2 years from the date of its first meeting, an investigation into all matters in any way related to any legislation, executive order, regulation, practice, or procedure relating to classified information or granting security clearances; and

“(2) to submit to the Congress a final report containing such recommendations concerning the classification of national security information and the granting of security clearances as the Commission shall determine, including proposing new procedures, rules, regulations, or legislation.

##### “SEC. 906. POWERS OF THE COMMISSION.

“(a) IN GENERAL.—(1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title—

“(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths, and

“(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents,

as the Commission or such designated subcommittee or designated member may deem advisable.

“(2) Subpoenas issued under paragraph (1)(B) may be issued under the signature of the Chairman of the Commission, the chairman of any designated subcommittee, or any designated member, and may be served by

any person designated by such Chairman, subcommittee chairman, or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192-194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

“(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

“(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

“(d) ASSISTANCE FROM FEDERAL AGENCIES.—(1) The Secretary of State is authorized on a reimbursable or non-reimbursable basis to provide the Commission with administrative services, funds, facilities, staff, and other support services for the performance of the Commission's functions.

“(2) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

“(3) In addition to the assistance set forth in paragraphs (1) and (2), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may deem advisable and as may be authorized by law.

“(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

“(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

#### “SEC. 907. STAFF OF THE COMMISSION.

“(a) IN GENERAL.—The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

“(b) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

#### “SEC. 908. COMPENSATION AND TRAVEL EXPENSES.

“(a) COMPENSATION.—(1) Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

“(2) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

“(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

#### “SEC. 909. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

“The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information pursuant to this section who would not otherwise qualify for such security clearance.

#### “SEC. 910. FINAL REPORT OF COMMISSION; TERMINATION.

“(a) FINAL REPORT.—Not later than two years after the date of the first meeting of the Commission, the Commission shall submit to the Congress its final report, as described in section 905(2).

“(b) TERMINATION.—(1) The Commission, and all the authorities of this title, shall terminate on the date which is 60 days after the date on which a final report is required to be transmitted under subsection (a).

“(2) The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its final report and disseminating that report.”

#### REPORTS RELATING TO CERTAIN SPECIAL ACCESS PROGRAMS AND SIMILAR PROGRAMS

Pub. L. 103-160, div. A, title XI, § 1152, Nov. 30, 1993, 107 Stat. 1758, provided that:

“(a) IN GENERAL.—(1) Not later than February 1 of each year, the head of each covered department or agency shall submit to Congress a report on each special access program carried out in the department or agency.

“(2) Each such report shall set forth—

“(A) the total amount requested by the department or agency for special access programs within the budget submitted under section 1105 of title 31, United States Code, for the fiscal year following the fiscal year in which the report is submitted; and

“(B) for each program in such budget that is a special access program—

“(i) a brief description of the program;

“(ii) in the case of a procurement program, a brief discussion of the major milestones established for the program;

“(iii) the actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted; and

“(iv) the estimated total cost of the program and the estimated cost of the program for (I) the current fiscal year, (II) the fiscal year for which the budget is submitted, and (III) each of the four succeeding fiscal years during which the program is expected to be conducted.

“(b) NEWLY DESIGNATED PROGRAMS.—(1) Not later than February 1 of each year, the head of each covered department or agency shall submit to Congress a report that, with respect to each new special access program of that department or agency, provides—

“(A) notice of the designation of the program as a special access program; and

“(B) justification for such designation.

“(2) A report under paragraph (1) with respect to a program shall include—

“(A) the current estimate of the total program cost for the program; and

“(B) an identification, as applicable, of existing programs or technologies that are similar to the technology, or that have a mission similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

“(3) In this subsection, the term ‘new special access program’ means a special access program that has not previously been covered in a notice and justification under this subsection.

“(c) REVISION IN CLASSIFICATION OF PROGRAMS.—(1) Whenever a change in the classification of a special access program of a covered department or agency is planned to be made or whenever classified information concerning a special access program of a covered department or agency is to be declassified and made public, the head of the department or agency shall submit to Congress a report containing a description of the proposed change or the information to be declassified, the reasons for the proposed change or declassification, and notice of any public announcement planned to be made with respect to the proposed change or declassification.

“(2) Except as provided in paragraph (3), a report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change, declassification, or public announcement is to occur.

“(3) If the head of the department or agency determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change, declassification, or public announcement concerning a special access program of the department or agency, the head of the department or agency may submit the report required by paragraph (1) regarding the proposed change, declassification, or public announcement at any time before the proposed change, declassification, or public announcement is made and shall include in the report an explanation of the exceptional circumstances.

“(d) REVISION OF CRITERIA FOR DESIGNATING PROGRAMS.—Whenever there is a modification or termination of the policy and criteria used for designating a program of a covered department or agency as a special access program, the head of the department or agency shall promptly notify Congress of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy as modified.

“(e) WAIVER OF REPORTING REQUIREMENT.—(1) The head of a covered department or agency may waive any requirement under subsection (a), (b), or (c) that certain information be included in a report under that subsection if the head of the department or agency determines that inclusion of that information in the report would adversely affect the national security. Any such waiver shall be made on a case-by-case basis.

“(2) If the head of a department or agency exercises the authority provided under paragraph (1), the head of the department or agency shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, to Congress.

“(f) INITIATION OF PROGRAMS.—A special access program may not be initiated by a covered department or agency until—

“(1) the appropriate oversight committees are notified of the program; and

“(2) a period of 30 days elapses after such notification is received.

“(g) DEFINITIONS.—For purposes of this section:

“(1) COVERED DEPARTMENT OR AGENCY.—(A) Except as provided in subparagraph (B), the term ‘covered department or agency’ means any department or agency of the Federal Government that carries out a special access program.

“(B) Such term does not include—

“(i) the Department of Defense (which is required to submit reports on special access programs under section 119 of title 10, United States Code);

“(ii) the Department of Energy, with respect to special access programs carried out under the atomic energy defense activities of that department (for which the Secretary of Energy is required to submit reports under section 93 of the Atomic Energy Act of 1954 [42 U.S.C. 2122a]); or

“(iii) an agency in the Intelligence Community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a)).

“(2) SPECIAL ACCESS PROGRAM.—The term ‘special access program’ means any program that, under the authority of Executive Order 12356 [set out below] (or any successor Executive order), is established by the head of a department or agency whom the President has designated in the Federal Register as an original ‘secret’ or ‘top secret’ classification authority that imposes ‘need-to-know’ controls or access controls beyond those controls normally required (by regulations applicable to such department or agency) for access to information classified as ‘confidential’, ‘secret’, or ‘top secret’.

#### DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF COLD WAR, KOREAN CONFLICT, AND VIETNAM ERA

Pub. L. 102-190, div. A, title X, §1082, Dec. 5, 1991, 105 Stat. 1480, as amended by Pub. L. 103-337, div. A, title X, §1036, Oct. 5, 1994, 108 Stat. 2841, provided that:

“(a) PUBLIC AVAILABILITY OF INFORMATION.—(1) Except as provided in subsection (b), the Secretary of Defense shall, with respect to any information referred to in paragraph (2), place the information in a suitable library-like location within a facility within the National Capital region for public review and photocopying.

“(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (A) United States personnel who remain not accounted for as a result of service in the Armed Forces or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (B) their remains.

“(b) EXCEPTIONS.—(1) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if—

“(A) the record or other information is exempt from the disclosure requirements of section 552 of title 5, United States Code, by reason of subsection (b) of that section; or

“(B) the record or other information is in a system of records exempt from the requirements of subsection (d) of section 552a of such title pursuant to subsection (j) or (k) of that section.

“(2) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if the record or other information specifically mentions a person by name unless—

“(A) in the case of a person who is alive (and not incapacitated) and whose whereabouts are known, that person expressly consents in writing to the disclosure of the record or other information; or

“(B) in the case of a person who is dead or incapacitated or whose whereabouts are unknown, a family member or family members of that person determined by the Secretary of Defense to be appropriate for such purpose expressly consent in writing to the disclosure of the record or other information.

“(3)(A) The limitation on disclosure in paragraph (2) does not apply in the case of a person who is dead or incapacitated or whose whereabouts are unknown if the family member or members of that person determined pursuant to subparagraph (B) of that paragraph cannot be located after a reasonable effort.

“(B) Paragraph (2) does not apply to the access of an adult member of the family of a person to any record or information to the extent that the record or other information relates to that person.

“(C) The authority of a person to consent to disclosure of a record or other information for the purposes of paragraph (2) may be delegated to another person or an organization only by means of an express legal power of attorney granted by the person authorized by that paragraph to consent to the disclosure.

“(c) DEADLINES.—(1) In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995. Such records or other information shall be made available as soon as a review carried out for the purposes of subsection (b) is completed.

“(2) Whenever a department or agency of the Federal Government receives any record or other information referred to in subsection (a) that is required by this section to be made available to the public, the head of that department or agency shall ensure that such record or other information is provided to the Secretary of Defense, and the Secretary shall make such record or other information available in accordance with subsection (a) as soon as possible and, in any event, not later than one year after the date on which the record or information is received by the department or agency of the Federal Government.

“(3) If the Secretary of Defense determines that the disclosure of any record or other information referred to in subsection (a) by the date required by paragraph (1) or (2) may compromise the safety of any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity, then the Secretary may withhold that record or other information from the disclosure otherwise required by this section. Whenever the Secretary makes a determination under the preceding sentence, the Secretary shall immediately notify the President and the Congress of that determination.

“(d) DEFINITIONS.—For purposes of this section:

“(1) The terms ‘Korean conflict’ and ‘Vietnam era’ have the meanings given those terms in section 101 of title 38, United States Code.

“(2) The term ‘Cold War’ means the period from the end of World War II to the beginning of the Korean conflict and the period from the end of the Korean conflict to the beginning of the Vietnam era.

“(3) The term ‘official custodian’ means—

“(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

“(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense.”

#### DISCLOSURE OF INFORMATION CONCERNING AMERICAN PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR IN SOUTHEAST ASIA

Pub. L. 100-453, title IV, § 404, Sept. 29, 1988, 102 Stat. 1908, provided that:

“(a) This section is enacted to ensure that current disclosure policy is incorporated into law.

“(b) Except as provided in subsection (c), the head of each department or agency—

“(1) with respect to which funds are authorized under this Act [see Tables for classification], and

“(2) which holds or receives live sighting reports of any United States citizen reported missing in action, prisoner of war, or unaccounted for from the Vietnam Conflict,

shall make available to the next-of-kin of that United States citizen all reports, or portions thereof, held by that department or agency which have been correlated or possibly correlated to that citizen.

“(c) Subsection (b) does not apply with respect to—

“(1) information that would reveal or compromise sources and methods of intelligence collection; or

“(2) specific information that previously has been made available to the next-of-kin.

“(d) The head of each department or agency covered by subsection (a) shall make information available under this section in a timely manner.”

#### EXECUTIVE ORDER NO. 10501

Ex. Ord. No. 10501, Nov. 5, 1953, 18 F.R. 7049, as amended by Ex. Ord. No. 10816, May 7, 1959, 24 F.R. 3777; Ex. Ord. No. 10901, Jan. 9, 1961, 26 F.R. 217; Ex. Ord. No. 10964, Sept. 20, 1961, 26 F.R. 8932; Ex. Ord. No. 10985, Jan. 12, 1962, 27 F.R. 439; Ex. Ord. No. 11097, Feb. 28, 1963, 28 F.R. 2225; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, which related to safeguarding official information, was superseded by Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, formerly set out below.

#### EX. ORD. NO. 10865, SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

Ex. Ord. No. 10865, Feb. 20, 1960, 25 F.R. 1583, as amended by Ex. Ord. No. 10909, Jan. 17, 1961, 26 F.R. 508; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 12829, § 203(g), Jan. 6, 1993, 58 F.R. 3479, provided:

WHEREAS it is mandatory that the United States protect itself against hostile or destructive activities by preventing unauthorized disclosures of classified information relating to the national defense; and

WHEREAS it is a fundamental principle of our Government to protect the interests of individuals against unreasonable or unwarranted encroachment; and

WHEREAS I find that the provisions and procedures prescribed by this order are necessary to assure the preservation of the integrity of classified defense information and to protect the national interest; and

WHEREAS I find that those provisions and procedures recognize the interest of individuals affected thereby and provide maximum possible safeguards to protect such interests:

NOW, THEREFORE, under and by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States and as Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

SECTION 1. When used in this order, the term “head of a department” means the Secretary of State, the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, the Nuclear Regulatory Commission, the Administrator of the National Aeronautics and Space Administration, and, in section 4, the Attorney General. The term “head of a department” also means the head of any department or agency, including but not limited to those referenced above with whom the Department of Defense makes an agreement to extend regulations prescribed by the Secretary of Defense concerning authorizations for access to classified information pursuant to Executive Order No. 12829 [set out below].

SEC. 2. An authorization for access to classified information pursuant to Executive Order No. 12829 [set out below] may be granted by the head of a department or his designee, including but not limited to, those officials named in section 8 of this order, to an individual, hereinafter termed an “applicant”, for a specific classification category only upon a finding that it is clearly consistent with the national interest to do so.

SEC. 3. Except as provided in section 9 of this order, an authorization for access to a specific classification category may not be finally denied or revoked pursuant to Executive Order No. 12829 [set out below] by the head of a department or his designee, including, but not limited to, those officials named in section 8 of this order, unless the applicant has been given the following:

(1) A written statement of the reasons why his access authorization may be denied or revoked, which shall be as comprehensive and detailed as the national security permits.

(2) A reasonable opportunity to reply in writing under oath or affirmation to the statement of reasons.

(3) After he has filed under oath or affirmation a written reply to the statement of reasons, the form and sufficiency of which may be prescribed by regulations issued by the head of the department concerned, an opportunity to appear personally before the head of the department concerned or his designee including, but not limited to, those officials named in section 8 of this

order for the purpose of supporting his eligibility for access authorization and to present evidence on his behalf.

- (4) A reasonable time to prepare for that appearance.
- (5) An opportunity to be represented by counsel.

(6) An opportunity to cross-examine persons either orally or through written interrogatories in accordance with section 4 on matters not relating to the characterization in the statement of reasons of any organization or individual other than the applicant.

(7) A written notice of the final decision in his case which, if adverse, shall specify whether the head of the department or his designee, including, but not limited to, those officials named in section 8 of this order, found for or against him with respect to each allegation in the statement of reasons.

SEC. 4. (a) An applicant shall be afforded an opportunity to cross-examine persons who have made oral or written statements adverse to the applicant relating to a controverted issue except that any such statement may be received and considered without affording such opportunity in the circumstances described in either of the following paragraphs:

(1) The head of the department supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of his identity would be substantially harmful to the national interest.

(2) The head of the department concerned or his special designee for that particular purpose has preliminarily determined, after considering information furnished by the investigative agency involved as to the reliability of the person and the accuracy of the statement concerned, that the statement concerned appears to be reliable and material, and the head of the department or such special designee has determined that failure to receive and consider such statement would, in view of the level of access sought, be substantially harmful to the national security and that the person who furnished the information cannot appear to testify (A) due to death, severe illness, or similar cause, in which case the identity of the person and the information to be considered shall be made available to the applicant, or (B) due to some other cause determined by the head of the department to be good and sufficient.

(b) Whenever procedures under paragraphs (1) or (2) of subsection (a) of this section are used (1) the applicant shall be given a summary of the information which shall be as comprehensive and detailed as the national security permits, (2) appropriate consideration shall be accorded to the fact that the applicant did not have an opportunity to cross-examine such person or persons, and (3) a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SEC. 5. (a) Records compiled in the regular course of business, or other physical evidence other than investigative reports, may be received and considered subject to rebuttal without authenticating witnesses, provided that such information has been furnished to the department concerned by an investigative agency pursuant to its responsibilities in connection with assisting the head of the department concerned to safeguard classified information within industry pursuant to this order.

(b) Records compiled in the regular course of business, or other physical evidence other than investigative reports, relating to a controverted issue which, because they are classified, may not be inspected by the applicant, may be received and considered provided that: (1) the head of the department concerned or his special designee for that purpose has made a preliminary determination that such physical evidence appears to be material, (2) the head of the department concerned or such designee has made a determination that failure to receive and consider such physical evidence would, in view of the level of access sought, be substantially harmful to the national security, and (3) to the extent that the national security permits, a

summary or description of such physical evidence is made available to the applicant. In every such case, information as to the authenticity and accuracy of such physical evidence furnished by the investigative agency involved shall be considered. In such instances a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SEC. 6. The head of a department of the United States or his representative, may issue, in appropriate cases, invitations and requests to appear and testify in order that the applicant may have the opportunity to cross-examine as provided by this order. Whenever a witness is so invited or requested to appear and testify at a proceeding and the witness is an officer or employee of the executive branch of the Government or a member of the armed forces of the United States, and the proceeding involves the activity in connection with which the witness is employed, travel expenses and per diem are authorized as provided by the Standardized Government Travel Regulations or the Joint Travel Regulations, as appropriate. In all other cases (including non-Government employees as well as officers or employees of the executive branch of the Government or members of the armed forces of the United States not covered by the foregoing sentence), transportation in kind and reimbursement for actual expenses are authorized in an amount not to exceed the amount payable under Standardized Government Travel Regulations. An officer or employee of the executive branch of the Government or a member of the armed forces of the United States who is invited or requested to appear pursuant to this paragraph shall be deemed to be in the performance of his official duties. So far as the national security permits, the head of the investigative agency involved shall cooperate with the Secretary, the Administrator, or the head of the other department or agency, as the case may be, in identifying persons who have made statements adverse to the applicant and in assisting him in making them available for cross-examination. If a person so invited is an officer or employee of the executive branch of the government or a member of the armed forces of the United States, the head of the department or agency concerned shall cooperate in making that person available for cross-examination.

SEC. 7. Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.

SEC. 8. Except as otherwise specified in the preceding provisions of this order, any authority vested in the head of a department by this order may be delegated to the [sic] deputy of that department, or the principal assistant to the head of that department, as the case may be.

SEC. 9. Nothing contained in this order shall be deemed to limit or affect the responsibility and powers of the head of a department to deny or revoke access to a specific classification category if the security of the nation so requires. Such authority may not be delegated and may be exercised only when the head of a department determines that the procedures prescribed in sections 3, 4, and 5 cannot be invoked consistently with the national security and such determination shall be conclusive.

#### MODIFICATION OF EXECUTIVE ORDER NO. 10865

Ex. Ord. No. 10865, Feb. 20, 1960, 25 F.R. 1583, as amended, set out above, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out under section 7151 of Title 42, The Public Health and Welfare.

#### EXECUTIVE ORDER NO. 10985

Ex. Ord. No. 10985, Jan. 12, 1962, 27 F.R. 439, which amended Executive Order No. 10501, which related to

safeguarding official information, was superseded by Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, formerly set out below.

#### EXECUTIVE ORDER NO. 11097

Ex. Ord. No. 11097, Feb. 28, 1963, 28 F.R. 2225, which amended Executive Order No. 10501, which related to safeguarding official information, was superseded by Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, formerly set out below.

#### EXECUTIVE ORDER NO. 11652

Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, as amended by Ex. Ord. No. 11714, Apr. 24, 1973, 38 F.R. 10245; Ex. Ord. No. 11862, June 11, 1975, 40 F.R. 25197; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, which related to the classification and declassification of national security information and material, was revoked by Ex. Ord. No. 12065, June 28, 1978, 43 F.R. 28949, formerly set out below.

#### EX. ORD. NO. 11932. CLASSIFICATION OF CERTAIN INFORMATION AND MATERIAL OBTAINED FROM ADVISORY BODIES CREATED TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Ex. Ord. No. 11932, Aug. 4, 1976, 41 F.R. 32691, provided: The United States has entered into the Agreement on an International Energy Program of November 18, 1974, which created the International Energy Agency. This program is a substantial factor in the conduct of our foreign relations and an important element of our national security. The effectiveness of the Agreement depends significantly upon the provision and exchange of information and material by participants in advisory bodies created by the International Energy Agency. Confidentiality is essential to assure the free and open discussion necessary to accomplish the tasks assigned to those bodies. I have consulted with the Secretary of State, the Attorney General and the Administrator of the Federal Energy Administration concerning the handling and safeguarding of information and material in the possession of the United States which has been obtained pursuant to the program, and I find that some of such information and material requires protection as provided in Executive Order No. 11652 of March 8, 1972, as amended [formerly set out above].

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States, it is hereby ordered as follows:

SECTION 1. Information and material obtained pursuant to the International Energy Program and which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States shall be classified pursuant to Executive Order No. 11652 of March 8, 1972, as amended [formerly set out above]. The Secretary of State shall have the responsibility for the classification, declassification and safeguarding of information and material in the possession of the United States Government which has been obtained pursuant to:

(a) Section 252(c)(3), (d)(2), or (e)(3) of the Energy Policy and Conservation Act (89 Stat. 871; 42 U.S.C. 6272(c)(3), (d)(2), (e)(3)), or

(b) The Voluntary Agreement and Program relating to the International Energy Program (40 F.R. 16041, April 8, 1975), or

(c) Any similar Voluntary Agreement and Program entered into under the Energy Policy and Conservation Act [42 U.S.C. 6201 et seq.] after the date of this Order.

SEC. 2. Information or material classified pursuant to Section 1 of this Order may be exempted from the General Declassification Schedule established by Section 5 of Executive Order No. 11652 [formerly set out above] if it was obtained by the United States on the understanding that it be kept in confidence, or if it might otherwise be exempted under Section 5(B) of such Order.

SEC. 3. (a) Within 60 days of the date of this Order, the Secretary of State shall promulgate regulations which implement his responsibilities under this Order.

(b) The directives issued under Section 6 of Executive Order No. 11652 [formerly set out above] shall not apply to information and material classified under this Order. However, the regulations promulgated by the Secretary of State shall:

(1) conform, to the extent practicable, to the policies set forth in Section 6 of Executive Order No. 11652 [formerly set out above], and

(2) provide that he may take such measures as he deems necessary and appropriate to ensure the confidentiality of any information and material classified under this Order that may remain in the custody or control of any person outside the United States Government.

GERALD R. FORD.

#### EXECUTIVE ORDER NO. 12065

Ex. Ord. No. 12065, June 28, 1978, 43 F.R. 28949, as amended by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, which related to classification and declassification of national security information and material, was revoked by Ex. Ord. No. 12356, Apr. 2, 1982, 47 F.R. 14874, 15557, set out below.

#### EX. ORD. NO. 12356. NATIONAL SECURITY INFORMATION

Ex. Ord. No. 12356, Apr. 2, 1982, 47 F.R. 14874, 15557, provided:

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This Order prescribes a uniform system for classifying, declassifying, and safeguarding national security information. It recognizes that it is essential that the public be informed concerning the activities of its Government, but that the interests of the United States and its citizens require that certain information concerning the national defense and foreign relations be protected against unauthorized disclosure. Information may not be classified under this Order unless its disclosure reasonably could be expected to cause damage to the national security.

NOW, by the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered as follows:

#### PART 1—ORIGINAL CLASSIFICATION

##### SECTION 1.1 CLASSIFICATION LEVELS

(a) National security information (hereinafter “classified information”) shall be classified at one of the following three levels:

(1) “Top Secret” shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security.

(2) “Secret” shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security.

(3) “Confidential” shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security.

(b) Except as otherwise provided by statute, no other terms shall be used to identify classified information.

(c) If there is reasonable doubt about the need to classify information, it shall be safeguarded as if it were classified pending a determination by an original classification authority, who shall make this determination within thirty (30) days. If there is reasonable doubt about the appropriate level of classification, it shall be safeguarded at the higher level of classification pending a determination by an original classification authority, who shall make this determination within thirty (30) days.

#### SEC. 1.2 CLASSIFICATION AUTHORITY

(a) *Top Secret*. The authority to classify information originally as Top Secret may be exercised only by:

- (1) the President;
- (2) agency heads and officials designated by the President in the Federal Register; and
- (3) officials delegated this authority pursuant to Section 1.2(d).

(b) *Secret*. The authority to classify information originally as Secret may be exercised only by:

- (1) agency heads and officials designated by the President in the Federal Register;
- (2) officials with original Top Secret classification authority; and
- (3) officials delegated such authority pursuant to Section 1.2(d).

(c) *Confidential*. The authority to classify information originally as Confidential may be exercised only by:

- (1) agency heads and officials designated by the President in the Federal Register;
- (2) officials with original Top Secret or Secret classification authority; and
- (3) officials delegated such authority pursuant to Section 1.2(d).

(d) *Delegation of Original Classification Authority*.

(1) Delegations of original classification authority shall be limited to the minimum required to administer this Order. Agency heads are responsible for ensuring that designated subordinate officials have a demonstrable and continuing need to exercise this authority.

(2) Original Top Secret classification authority may be delegated only by the President; an agency head or official designated pursuant to Section 1.2(a)(2); and the senior official designated under Section 5.3(a), provided that official has been delegated original Top Secret classification authority by the agency head.

(3) Original Secret classification authority may be delegated only by the President; an agency head or official designated pursuant to Sections 1.2(a)(2) and 1.2(b)(1); an official with original Top Secret classification authority; and the senior official designated under Section 5.3(a), provided that official has been delegated original Secret classification authority by the agency head.

(4) Original Confidential classification authority may be delegated only by the President; an agency head or official designated pursuant to Sections 1.2(a)(2), 1.2(b)(1) and 1.2(c)(1); an official with original Top Secret classification authority; and the senior official designated under Section 5.3(a), provided that official has been delegated original classification authority by the agency head.

(5) Each delegation of original classification authority shall be in writing and the authority shall not be redelegated except as provided in this Order. It shall identify the official delegated the authority by name or

position title. Delegated classification authority includes the authority to classify information at the level granted and lower levels of classification.

(e) *Exceptional Cases*. When an employee, contractor, licensee, or grantee of an agency that does not have original classification authority originates information believed by that person to require classification, the information shall be protected in a manner consistent with this Order and its implementing directives. The information shall be transmitted promptly as provided under this Order or its implementing directives to the agency that has appropriate subject matter interest and classification authority with respect to this information. That agency shall decide within thirty (30) days whether to classify this information. If it is not clear which agency has classification responsibility for this information, it shall be sent to the Director of the Information Security Oversight Office. The Director shall determine the agency having primary subject matter interest and forward the information, with appropriate recommendations, to that agency for a classification determination.

#### SEC. 1.3 CLASSIFICATION CATEGORIES

(a) Information shall be considered for classification if it concerns:

- (1) military plans, weapons, or operations;
- (2) the vulnerabilities or capabilities of systems, installations, projects, or plans relating to the national security;
- (3) foreign government information;
- (4) intelligence activities (including special activities), or intelligence sources or methods;
- (5) foreign relations or foreign activities of the United States;
- (6) scientific, technological, or economic matters relating to the national security;
- (7) United States Government programs for safeguarding nuclear materials or facilities;
- (8) cryptology;
- (9) a confidential source; or
- (10) other categories of information that are related to the national security and that require protection against unauthorized disclosure as determined by the President or by agency heads or other officials who have been delegated original classification authority by the President. Any determination made under this subsection shall be reported promptly to the Director of the Information Security Oversight Office.

(b) Information that is determined to concern one or more of the categories in Section 1.3(a) shall be classified when an original classification authority also determines that its unauthorized disclosure, either by itself or in the context of other information, reasonably could be expected to cause damage to the national security.

(c) Unauthorized disclosure of foreign government information, the identity of a confidential foreign source, or intelligence sources or methods is presumed to cause damage to the national security.

(d) Information classified in accordance with Section 1.3 shall not be declassified automatically as a result of any unofficial publication or inadvertent or unauthorized disclosure in the United States or abroad of identical or similar information.

#### SEC. 1.4 DURATION OF CLASSIFICATION

(a) Information shall be classified as long as required by national security considerations. When it can be determined, a specific date or event for declassification shall be set by the original classification authority at the time the information is originally classified.

(b) Automatic declassification determinations under predecessor orders shall remain valid unless the classification is extended by an authorized official of the originating agency. These extensions may be by individual documents or categories of information. The agency shall be responsible for notifying holders of the information of such extensions.



(c) Information classified under predecessor orders and marked for declassification review shall remain classified until reviewed for declassification under the provisions of this Order.

#### SEC. 1.5 IDENTIFICATION AND MARKINGS

(a) At the time of original classification, the following information shall be shown on the face of all classified documents, or clearly associated with other forms of classified information in a manner appropriate to the medium involved, unless this information itself would reveal a confidential source or relationship not otherwise evident in the document or information:

(1) one of the three classification levels defined in Section 1.1;

(2) the identity of the original classification authority if other than the person whose name appears as the approving or signing official;

(3) the agency and office of origin; and

(4) the date or event for declassification, or the notation "Originating Agency's Determination Required."

(b) Each classified document shall, by marking or other means, indicate which portions are classified, with the applicable classification level, and which portions are not classified. Agency heads may, for good cause, grant and revoke waivers of this requirement for specified classes of documents or information. The Director of the Information Security Oversight Office shall be notified of any waivers.

(c) Marking designations implementing the provisions of this Order, including abbreviations, shall conform to the standards prescribed in implementing directives issued by the Information Security Oversight Office.

(d) Foreign government information shall either retain its original classification or be assigned a United States classification that shall ensure a degree of protection at least equivalent to that required by the entity that furnished the information.

(e) Information assigned a level of classification under predecessor orders shall be considered as classified at that level of classification despite the omission of other required markings. Omitted markings may be inserted on a document by the officials specified in Section 3.1(b).

#### SEC. 1.6 LIMITATIONS ON CLASSIFICATION

(a) In no case shall information be classified in order to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization, or agency; to restrain competition; or to prevent or delay the release of information that does not require protection in the interest of national security.

(b) Basic scientific research information not clearly related to the national security may not be classified.

(c) The President or an agency head or official designated under Sections 1.2(a)(2), 1.2(b)(1), or 1.2(c)(1) may reclassify information previously declassified and disclosed if it is determined in writing that (1) the information requires protection in the interest of national security; and (2) the information may reasonably be recovered. These reclassification actions shall be reported promptly to the Director of the Information Security Oversight Office.

(d) Information may be classified or reclassified after an agency has received a request for it under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act of 1974 (5 U.S.C. 552a), or the mandatory review provisions of this Order (Section 3.4) if such classification meets the requirements of this Order and is accomplished personally and on a document-by-document basis by the agency head, the deputy agency head, the senior agency official designated under Section 5.3(a), or an official with original Top Secret classification authority.

### PART 2—DERIVATIVE CLASSIFICATION

#### SEC. 2.1 USE OF DERIVATIVE CLASSIFICATION

(a) Derivative classification is (1) the determination that information is in substance the same as informa-

tion currently classified, and (2) the application of the same classification markings. Persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide, need not possess original classification authority.

(b) Persons who apply derivative classification markings shall:

(1) observe and respect original classification decisions; and

(2) carry forward to any newly created documents any assigned authorized markings. The declassification date or event that provides the longest period of classification shall be used for documents classified on the basis of multiple sources.

#### SEC. 2.2 CLASSIFICATION GUIDES

(a) Agencies with original classification authority shall prepare classification guides to facilitate the proper and uniform derivative classification of information.

(b) Each guide shall be approved personally and in writing by an official who:

(1) has program or supervisory responsibility over the information or is the senior agency official designated under Section 5.3(a); and

(2) is authorized to classify information originally at the highest level of classification prescribed in the guide.

(c) Agency heads may, for good cause, grant and revoke waivers of the requirement to prepare classification guides for specified classes of documents or information. The Director of the Information Security Oversight Office shall be notified of any waivers.

### PART 3—DECLASSIFICATION AND DOWNGRADING

#### SEC. 3.1 DECLASSIFICATION AUTHORITY

(a) Information shall be declassified or downgraded as soon as national security considerations permit. Agencies shall coordinate their review of classified information with other agencies that have a direct interest in the subject matter. Information that continues to meet the classification requirements prescribed by Section 1.3 despite the passage of time will continue to be protected in accordance with this Order.

(b) Information shall be declassified or downgraded by the official who authorized the original classification, if that official is still serving in the same position; the originator's successor; a supervisory official of either; or officials delegated such authority in writing by the agency head or the senior agency official designated pursuant to Section 5.3(a).

(c) If the Director of the Information Security Oversight Office determines that information is classified in violation of this Order, the Director may require the information to be declassified by the agency that originated the classification. Any such decision by the Director may be appealed to the National Security Council. The information shall remain classified, pending a prompt decision on the appeal.

(d) The provisions of this Section shall also apply to agencies that, under the terms of this Order, do not have original classification authority, but that had such authority under predecessor orders.

#### SEC. 3.2 TRANSFERRED INFORMATION

(a) In the case of classified information transferred in conjunction with a transfer of functions, and not merely for storage purposes, the receiving agency shall be deemed to be the originating agency for purposes of this Order.

(b) In the case of classified information that is not officially transferred as described in Section 3.2(a), but that originated in an agency that has ceased to exist and for which there is no successor agency, each agency in possession of such information shall be deemed to be the originating agency for purposes of this Order. Such information may be declassified or downgraded by the agency in possession after consultation with any other

agency that has an interest in the subject matter of the information.

(c) Classified information accessioned into the National Archives of the United States shall be declassified or downgraded by the Archivist of the United States in accordance with this Order, the directives of the Information Security Oversight Office, and agency guidelines.

#### SEC. 3.3 SYSTEMATIC REVIEW FOR DECLASSIFICATION

(a) The Archivist of the United States shall, in accordance with procedures and timeframes prescribed in the Information Security Oversight Office's directives implementing this Order, systematically review for declassification or downgrading (1) classified records accessioned into the National Archives of the United States, and (2) classified presidential papers or records under the Archivist's control. Such information shall be reviewed by the Archivist for declassification or downgrading in accordance with systematic review guidelines that shall be provided by the head of the agency that originated the information, or in the case of foreign government information, by the Director of the Information Security Oversight Office in consultation with interested agency heads.

(b) Agency heads may conduct internal systematic review programs for classified information originated by their agencies contained in records determined by the Archivist to be permanently valuable but that have not been accessioned into the National Archives of the United States.

(c) After consultation with affected agencies, the Secretary of Defense may establish special procedures for systematic review for declassification of classified cryptologic information, and the Director of Central Intelligence may establish special procedures for systematic review for declassification of classified information pertaining to intelligence activities (including special activities), or intelligence sources or methods.

#### SEC. 3.4 MANDATORY REVIEW FOR DECLASSIFICATION

(a) Except as provided in Section 3.4(b), all information classified under this Order or predecessor orders shall be subject to a review for declassification by the originating agency, if:

(1) the request is made by a United States citizen or permanent resident alien, a federal agency, or a State or local government; and

(2) the request describes the document or material containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort.

(b) Information originated by a President, the White House Staff, by committees, commissions, or boards appointed by the President, or others specifically providing advice and counsel to a President or acting on behalf of a President is exempted from the provisions of Section 3.4(a). The Archivist of the United States shall have the authority to review, downgrade and declassify information under the control of the Administrator of General Services or the Archivist pursuant to sections 2107, 2107 note, or 2203 of title 44, United States Code. Review procedures developed by the Archivist shall provide for consultation with agencies having primary subject matter interest and shall be consistent with the provisions of applicable laws or lawful agreements that pertain to the respective presidential papers or records. Any decision by the Archivist may be appealed to the Director of the Information Security Oversight Office. Agencies with primary subject matter interest shall be notified promptly of the Director's decision on such appeals and may further appeal to the National Security Council. The information shall remain classified pending a prompt decision on the appeal.

(c) Agencies conducting a mandatory review for declassification shall declassify information no longer requiring protection under this Order. They shall release this information unless withholding is otherwise authorized under applicable law.

(d) Agency heads shall develop procedures to process requests for the mandatory review of classified information. These procedures shall apply to information classified under this or predecessor orders. They shall also provide a means for administratively appealing a denial of a mandatory review request.

(e) The Secretary of Defense shall develop special procedures for the review of cryptologic information, and the Director of Central Intelligence shall develop special procedures for the review of information pertaining to intelligence activities (including special activities), or intelligence sources or methods, after consultation with affected agencies. The Archivist shall develop special procedures for the review of information accessioned into the National Archives of the United States.

(f) In response to a request for information under the Freedom of Information Act [5 U.S.C. 552], the Privacy Act of 1974 [5 U.S.C. 552a], or the mandatory review provisions of this Order:

(1) An agency shall refuse to confirm or deny the existence or non-existence of requested information whenever the fact of its existence or non-existence is itself classifiable under this Order.

(2) When an agency receives any request for documents in its custody that were classified by another agency, it shall refer copies of the request and the requested documents to the originating agency for processing, and may, after consultation with the originating agency, inform the requester of the referral. In cases in which the originating agency determines in writing that a response under Section 3.4(f)(1) is required, the referring agency shall respond to the requester in accordance with that Section.

### PART 4—SAFEGUARDING

#### SEC. 4.1 GENERAL RESTRICTIONS ON ACCESS

(a) A person is eligible for access to classified information provided that a determination of trustworthiness has been made by agency heads or designated officials and provided that such access is essential to the accomplishment of lawful and authorized Government purposes.

(b) Controls shall be established by each agency to ensure that classified information is used, processed, stored, reproduced, transmitted, and destroyed only under conditions that will provide adequate protection and prevent access by unauthorized persons.

(c) Classified information shall not be disseminated outside the executive branch except under conditions that ensure that the information will be given protection equivalent to that afforded within the executive branch.

(d) Except as provided by directives issued by the President through the National Security Council, classified information originating in one agency may not be disseminated outside any other agency to which it has been made available without the consent of the originating agency. For purposes of this Section, the Department of Defense shall be considered one agency.

#### SEC. 4.2 SPECIAL ACCESS PROGRAMS

(a) Agency heads designated pursuant to Section 1.2(a) may create special access programs to control access, distribution, and protection of particularly sensitive information classified pursuant to this Order or predecessor orders. Such programs may be created or continued only at the written direction of these agency heads. For special access programs pertaining to intelligence activities (including special activities but not including military operational, strategic and tactical programs), or intelligence sources or methods, this function will be exercised by the Director of Central Intelligence.

(b) Each agency head shall establish and maintain a system of accounting for special access programs. The Director of the Information Security Oversight Office, consistent with the provisions of Section 5.2(b)(4), shall have nondelegable access to all such accountings.

#### SEC. 4.3 ACCESS BY HISTORICAL RESEARCHERS AND FORMER PRESIDENTIAL APPOINTEES

(a) The requirement in Section 4.1(a) that access to classified information may be granted only as is essential to the accomplishment of authorized and lawful Government purposes may be waived as provided in Section 4.3(b) for persons who:

(1) are engaged in historical research projects, or  
(2) previously have occupied policy-making positions to which they were appointed by the President.

(b) Waivers under Section 4.3(a) may be granted only if the originating agency:

(1) determines in writing that access is consistent with the interest of national security;

(2) takes appropriate steps to protect classified information from unauthorized disclosure or compromise, and ensures that the information is safeguarded in a manner consistent with this Order; and

(3) limits the access granted to former presidential appointees to items that the person originated, reviewed, signed, or received while serving as a presidential appointee.

### PART 5—IMPLEMENTATION AND REVIEW

#### SEC. 5.1 POLICY DIRECTION

(a) The National Security Council shall provide overall policy direction for the information security program.

(b) The Administrator of General Services shall be responsible for implementing and monitoring the program established pursuant to this Order. The Administrator shall delegate the implementation and monitoring functions of this program to the Director of the Information Security Oversight Office.

#### SEC. 5.2 INFORMATION SECURITY OVERSIGHT OFFICE

(a) The Information Security Oversight Office shall have a full-time Director appointed by the Administrator of General Services subject to approval by the President. The Director shall have the authority to appoint a staff for the Office.

(b) The Director shall:

(1) develop, in consultation with the agencies, and promulgate, subject to the approval of the National Security Council, directives for the implementation of this Order, which shall be binding on the agencies;

(2) oversee agency actions to ensure compliance with this Order and implementing directives;

(3) review all agency implementing regulations and agency guidelines for systematic declassification review. The Director shall require any regulation or guideline to be changed if it is not consistent with this Order or implementing directives. Any such decision by the Director may be appealed to the National Security Council. The agency regulation or guideline shall remain in effect pending a prompt decision on the appeal;

(4) have the authority to conduct on-site reviews of the information security program of each agency that generates or handles classified information and to require of each agency those reports, information, and other cooperation that may be necessary to fulfill the Director's responsibilities. If these reports, inspections, or access to specific categories of classified information would pose an exceptional national security risk, the affected agency head or the senior official designated under Section 5.3(a) may deny access. The Director may appeal denials to the National Security Council. The denial of access shall remain in effect pending a prompt decision on the appeal;

(5) review requests for original classification authority from agencies or officials not granted original classification authority and, if deemed appropriate, recommend presidential approval;

(6) consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the information security program;

(7) have the authority to prescribe, after consultation with affected agencies, standard forms that will pro-

mote the implementation of the information security program;

(8) report at least annually to the President through the National Security Council on the implementation of this Order; and

(9) have the authority to convene and chair inter-agency meetings to discuss matters pertaining to the information security program.

#### SEC. 5.3 GENERAL RESPONSIBILITIES

Agencies that originate or handle classified information shall:

(a) designate a senior agency official to direct and administer its information security program, which shall include an active oversight and security education program to ensure effective implementation of this Order.

(b) promulgate implementing regulations. Any unclassified regulations that establish agency information security policy shall be published in the Federal Register to the extent that these regulations affect members of the public;

(c) establish procedures to prevent unnecessary access to classified information, including procedures that (i) require that a demonstrable need for access to classified information is established before initiating administrative clearance procedures, and (ii) ensure that the number of persons granted access to classified information is limited to the minimum consistent with operational and security requirements and needs; and

(d) develop special contingency plans for the protection of classified information used in or near hostile or potentially hostile areas.

#### SEC. 5.4 SANCTIONS

(a) If the Director of the Information Security Oversight Office finds that a violation of this Order or its implementing directives may have occurred, the Director shall make a report to the head of the agency or to the senior official designated under Section 5.3(a) so that corrective steps, if appropriate, may be taken.

(b) Officers and employees of the United States Government, and its contractors, licensees, and grantees shall be subject to appropriate sanctions if they:

(1) knowingly, willfully, or negligently disclose to unauthorized persons information properly classified under this Order or predecessor orders;

(2) knowingly and willfully classify or continue the classification of information in violation of this Order or any implementing directive; or

(3) knowingly and willfully violate any other provision of this Order or implementing directive.

(c) Sanctions may include reprimand, suspension without pay, removal, termination of classification authority, loss or denial of access to classified information, or other sanctions in accordance with applicable law and agency regulation.

(d) Each agency head or the senior official designated under Section 5.3(a) shall ensure that appropriate and prompt corrective action is taken whenever a violation under Section 5.4(b) occurs. Either shall ensure that the Director of the Information Security Oversight Office is promptly notified whenever a violation under Section 5.4(b)(1) or (2) occurs.

### PART 6—GENERAL PROVISIONS

#### SEC. 6.1 DEFINITIONS

(a) "Agency" has the meaning provided at 5 U.S.C. 552(e).

(b) "Information" means any information or material, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States Government.

(c) "National security information" means information that has been determined pursuant to this Order or any predecessor order to require protection against unauthorized disclosure and that is so designated.

(d) "Foreign government information" means:

(1) information provided by a foreign government or governments, an international organization of govern-

ments, or any element thereof with the expectation, expressed or implied, that the information, the source of the information, or both, are to be held in confidence; or

(2) information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

(e) "National security" means the national defense or foreign relations of the United States.

(f) "Confidential source" means any individual or organization that has provided, or that may reasonably be expected to provide, information to the United States on matters pertaining to the national security with the expectation, expressed or implied, that the information or relationship, or both, be held in confidence.

(g) "Original classification" means an initial determination that information requires, in the interest of national security, protection against unauthorized disclosure, together with a classification designation signifying the level of protection required.

#### SEC. 6.2 GENERAL

(a) Nothing in this Order shall supersede any requirement made by or under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.]. "Restricted Data" and "Formerly Restricted Data" shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and regulations issued under that Act.

(b) The Attorney General, upon request by the head of an agency or the Director of the Information Security Oversight Office, shall render an interpretation of this Order with respect to any question arising in the course of its administration.

(c) Nothing in this Order limits the protection afforded any information by other provisions of law.

(d) Executive Order No. 12065 of June 28, 1978, as amended, is revoked as of the effective date of this Order.

(e) This Order shall become effective on August 1, 1982.

RONALD REAGAN.

#### OFFICIALS DESIGNATED TO CLASSIFY NATIONAL SECURITY INFORMATION

Order of the President of the United States, dated May 7, 1982, 47 F.R. 20105, provided:

Pursuant to the provisions of Section 1.2 of Executive Order No. 12356 of April 2, 1982, entitled "National Security Information," [set out above] I hereby designate the following officials to classify information originally as "Top Secret", "Secret", or "Confidential":

#### TOP SECRET

##### EXECUTIVE OFFICE OF THE PRESIDENT:

The Vice President  
 The Counsellor to the President  
 The Chief of Staff and Assistant to the President  
 The Deputy Chief of Staff and Assistant to the President  
 The Director, Office of Management and Budget  
 The United States Trade Representative  
 The Assistant to the President for National Security Affairs  
 The Director, Office of Science and Technology Policy  
 The Chairman, The President's Foreign Intelligence Advisory Board  
 The Chairman, The President's Intelligence Oversight Board  
 The Secretary of State  
 The Secretary of the Treasury  
 The Secretary of Defense

The Secretary of the Army  
 The Secretary of the Navy  
 The Secretary of the Air Force  
 The Attorney General  
 The Secretary of Energy  
 The Chairman, Nuclear Regulatory Commission  
 The Director, United States Arms Control and Disarmament Agency  
 The Director of Central Intelligence  
 The Administrator, National Aeronautics and Space Administration  
 The Administrator of General Services  
 The Director, Federal Emergency Management Agency

#### SECRET

##### EXECUTIVE OFFICE OF THE PRESIDENT:

The Chairman, Council of Economic Advisers  
 The President's Personal Representative for Micronesian Status Negotiations  
 The Secretary of Commerce  
 The Secretary of Transportation  
 The Administrator, Agency for International Development  
 The Director, International Communication Agency

#### CONFIDENTIAL

The President, Export-Import Bank of the United States  
 The President, Overseas Private Investment Corporation  
 The Administrator, Environmental Protection Agency  
 Any delegation of this authority shall be in accordance with Section 1.2(d) of the Order.

This Order shall be published in the Federal Register.

RONALD REAGAN.

Order of the President of the United States, dated May 4, 1990, 55 F.R. 19235, provided:

Pursuant to the provisions of Section 1.2 of Executive Order No. 12356 of April 2, 1982, entitled "National Security Information," [set out above] I hereby designate the Director of National Drug Control Policy to classify information originally as "Top Secret."

This order shall be published in the Federal Register.

GEORGE BUSH.

EX. ORD. NO. 12812. DECLASSIFICATION AND RELEASE OF MATERIALS PERTAINING TO PRISONERS OF WAR AND MISSING IN ACTION

Ex. Ord. No. 12812, July 22, 1992, 57 F.R. 32879, provided:

WHEREAS, the Senate, by S. Res. 324 of July 2, 1992, has asked that I "expeditiously issue an Executive order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POWs and MIAs;" and

WHEREAS, indiscriminate release of classified material could jeopardize continuing United States Government efforts to achieve the fullest possible accounting of Vietnam-era POWs and MIAs; and

WHEREAS, I have concluded that the public interest would be served by the declassification and public release of materials pertaining to Vietnam-era POWs and MIAs as provided below;

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

SECTION 1. All executive departments and agencies shall expeditiously review all documents, files, and other materials pertaining to American POWs and MIAs lost in Southeast Asia for the purposes of declassification in accordance with the standards and procedures of Executive Order No. 12356 [set out above].

SEC. 2. All executive departments and agencies shall make publicly available documents, files, and other

materials declassified pursuant to section 1, except for those the disclosure of which would constitute a clearly unwarranted invasion of personal privacy of returnees, family members of POWs and MIAs, or other persons, or would impair the deliberative processes of the executive branch.

SEC. 3. This order is not intended to create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

GEORGE BUSH.

EX. ORD. NO. 12829. NATIONAL INDUSTRIAL SECURITY PROGRAM

Ex. Ord. No. 12829, Jan. 6, 1993, 58 F.R. 3479, as amended by Ex. Ord. No. 12885, Dec. 14, 1993, 58 F.R. 65863, provided:

This order establishes a National Industrial Security Program to safeguard Federal Government classified information that is released to contractors, licensees, and grantees of the United States Government. To promote our national interests, the United States Government issues contracts, licenses, and grants to non-government organizations. When these arrangements require access to classified information, the national security requires that this information be safeguarded in a manner equivalent to its protection within the executive branch of Government. The national security also requires that our industrial security program promote the economic and technological interests of the United States. Redundant, overlapping, or unnecessary requirements impede those interests. Therefore, the National Industrial Security Program shall serve as a single, integrated, cohesive industrial security program to protect classified information and to preserve our Nation's economic and technological interests.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011–2286) [42 U.S.C. 2011 et seq.], the National Security Act of 1947, as amended (codified as amended in scattered sections of the United States Code) [see Short Title note set out under section 401 of this title], and the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2) [5 App. U.S.C.], it is hereby ordered as follows:

PART 1. ESTABLISHMENT AND POLICY

SECTION 101. *Establishment.* (a) There is established a National Industrial Security Program. The purpose of this program is to safeguard classified information that may be released or has been released to current, prospective, or former contractors, licensees, or grantees of United States agencies. For the purposes of this order, the terms “contractor, licensee, or grantee” means current, prospective, or former contractors, licensees, or grantees of United States agencies. The National Industrial Security Program shall be applicable to all executive branch departments and agencies.

(b) The National Industrial Security Program shall provide for the protection of information classified pursuant to Executive Order No. 12356 of April 2, 1982 [set out above], or its successor, and the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.].

(c) For the purposes of this order, the term “contractor” does not include individuals engaged under personal services contracts.

SEC. 102. *Policy Direction.* (a) The National Security Council shall provide overall policy direction for the National Industrial Security Program.

(b) The Director of the Information Security Oversight Office, established under Executive Order No. 12356 of April 2, 1982 [set out above], shall be responsible for implementing and monitoring the National Industrial Security Program and shall:

(1) develop, in consultation with the agencies, and promulgate subject to the approval of the National Security Council, directives for the implementation of this order, which shall be binding on the agencies;

(2) oversee agency, contractor, licensee, and grantee actions to ensure compliance with this order and implementing directives;

(3) review all agency implementing regulations, internal rules, or guidelines. The Director shall require any regulation, rule, or guideline to be changed if it is not consistent with this order or implementing directives. Any such decision by the Director may be appealed to the National Security Council. The agency regulation, rule, or guideline shall remain in effect pending a prompt decision on the appeal;

(4) have the authority, pursuant to terms of applicable contracts, licenses, grants, or regulations, to conduct on-site reviews of the implementation of the National Industrial Security Program by each agency, contractor, licensee, and grantee that has access to or stores classified information and to require of each agency, contractor, licensee, and grantee those reports, information, and other cooperation that may be necessary to fulfill the Director's responsibilities. If these reports, inspections, or access to specific classified information, or other forms of cooperation, would pose an exceptional national security risk, the affected agency head or the senior official designated under section 203(a) of this order may request the National Security Council to deny access to the Director. The Director shall not have access pending a prompt decision by the National Security Council;

(5) report any violations of this order or its implementing directives to the head of the agency or to the senior official designated under section 203(a) of this order so that corrective action, if appropriate, may be taken. Any such report pertaining to the implementation of the National Industrial Security Program by a contractor, licensee, or grantee shall be directed to the agency that is exercising operational oversight over the contractor, licensee, or grantee under section 202 of this order;

(6) consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the National Industrial Security Program;

(7) consider, in consultation with the advisory committee established by this order, affected agencies, contractors, licensees, and grantees, and recommend to the President through the National Security Council changes to this order; and

(8) report at least annually to the President through the National Security Council on the implementation of the National Industrial Security Program.

(c) Nothing in this order shall be construed to supersede the authority of the Secretary of Energy or the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], or the authority of the Director of Central Intelligence under the National Security Act of 1947, as amended [see Short Title note set out under section 401 of this title], or Executive Order No. 12333 of December 8, 1981 [50 U.S.C. 401 note].

SEC. 103. *National Industrial Security Program Policy Advisory Committee.* (a) *Establishment.* There is established the National Industrial Security Program Policy Advisory Committee (“Committee”). The Director of the Information Security Oversight Office shall serve as Chairman of the Committee and appoint the members of the Committee. The members of the Committee shall be the representatives of those departments and agencies most affected by the National Industrial Security Program and nongovernment representatives of contractors, licensees, or grantees involved with classified contracts, licenses, or grants, as determined by the Chairman.

(b) *Functions.* (1) The Committee members shall advise the Chairman of the Committee on all matters concerning the policies of the National Industrial Security Program, including recommended changes to those policies as reflected in this order, its implementing directives, or the operating manual established under this order, and serve as a forum to discuss policy issues in dispute.

(2) The Committee shall meet at the request of the Chairman, but at least twice during the calendar year.

(c) *Administration.* (1) Members of the Committee shall serve without compensation for their work on the Committee. However, nongovernment members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

(2) To the extent permitted by law and subject to the availability of funds, the Administrator of General Services shall provide the Committee with administrative services, facilities, staff, and other support services necessary for the performance of its functions.

(d) *General.* Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended [5 App. U.S.C.], except that of reporting to the Congress, which are applicable to the Committee, shall be performed by the Administrator of General Services in accordance with the guidelines and procedures established by the General Services Administration.

## PART 2. OPERATIONS

SEC. 201. *National Industrial Security Program Operating Manual.* (a) The Secretary of Defense, in consultation with all affected agencies and with the concurrence of the Secretary of Energy, the Nuclear Regulatory Commission, and the Director of Central Intelligence, shall issue and maintain a National Industrial Security Program Operating Manual (“Manual”). The Secretary of Energy and the Nuclear Regulatory Commission shall prescribe and issue that portion of the Manual that pertains to information classified under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.]. The Director of Central Intelligence shall prescribe and issue that portion of the Manual that pertains to intelligence sources and methods, including Sensitive Compartmented Information.

(b) The Manual shall prescribe specific requirements, restrictions, and other safeguards that are necessary to preclude unauthorized disclosure and control authorized disclosure of classified information to contractors, licensees, or grantees. The Manual shall apply to the release of classified information during all phases of the contracting process including bidding, negotiation, award, performance, and termination of contracts, the licensing process, or the grant process, with or under the control of departments or agencies.

(c) The Manual shall also prescribe requirements, restrictions, and other safeguards that are necessary to protect special classes of classified information, including Restricted Data, Formerly Restricted Data, intelligence sources and methods information, Sensitive Compartmented Information, and Special Access Program information.

(d) In establishing particular requirements, restrictions, and other safeguards within the Manual, the Secretary of Defense, the Secretary of Energy, the Nuclear Regulatory Commission, and the Director of Central Intelligence shall take into account these factors: (i) the damage to the national security that reasonably could be expected to result from an unauthorized disclosure; (ii) the existing or anticipated threat to the disclosure of information; and (iii) the short- and long-term costs of the requirements, restrictions, and other safeguards.

(e) To the extent that is practicable and reasonable, the requirements, restrictions, and safeguards that the Manual establishes for the protection of classified information by contractors, licensees, and grantees shall be consistent with the requirements, restrictions, and safeguards that directives implementing Executive Order No. 12356 of April 2, 1982 [set out above], or the Atomic Energy Act of 1954, as amended, establish for the protection of classified information by agencies. Upon request by the Chairman of the Committee, the Secretary of Defense shall provide an explanation and justification for any requirement, restriction, or safeguard that results in a standard for the protection of

classified information by contractors, licensees, and grantees that differs from the standard that applies to agencies.

(f) The Manual shall be issued to correspond as closely as possible to pertinent decisions of the Secretary of Defense and the Director of Central Intelligence made pursuant to the recommendations of the Joint Security Review Commission and to revisions to the security classification system that result from Presidential Review Directive 29, but in any event no later than June 30, 1994.

SEC. 202. *Operational Oversight.* (a) The Secretary of Defense shall serve as Executive Agent for inspecting and monitoring the contractors, licensees, and grantees who require or will require access to, or who store or will store classified information; and for determining the eligibility for access to classified information of contractors, licensees, and grantees and their respective employees. The heads of agencies shall enter into agreements with the Secretary of Defense that establish the terms of the Secretary’s responsibilities on behalf of these agency heads.

(b) The Director of Central Intelligence retains authority over access to intelligence sources and methods, including Sensitive Compartmented Information. The Director of Central Intelligence may inspect and monitor [sic] contractor, licensee, and grantee programs and facilities that involve access to such information or may enter into written agreements with the Secretary of Defense, as Executive Agent, to inspect and monitor these programs or facilities, in whole or in part, on the Director’s behalf.

(c) The Secretary of Energy and the Nuclear Regulatory Commission retain authority over access to information under their respective programs classified under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.]. The Secretary or the Commission may inspect and monitor contractor, licensee, and grantee programs and facilities that involve access to such information or may enter into written agreements with the Secretary of Defense, as Executive Agent, to inspect and monitor these programs or facilities, in whole or in part, on behalf of the Secretary or the Commission, respectively.

(d) The Executive Agent shall have the authority to issue, after consultation with affected agencies, standard forms or other standardization that will promote the implementation of the National Industrial Security Program.

SEC. 203. *Implementation.* (a) The head of each agency that enters into classified contracts, licenses, or grants shall designate a senior agency official to direct and administer the agency’s implementation and compliance with the National Industrial Security Program.

(b) Agency implementing regulations, internal rules, or guidelines shall be consistent with this order, its implementing directives, and the Manual. Agencies shall issue these regulations, rules, or guidelines no later than 180 days from the issuance of the Manual. They may incorporate all or portions of the Manual by reference.

(c) Each agency head or the senior official designated under paragraph (a) above shall take appropriate and prompt corrective action whenever a violation of this order, its implementing directives, or the Manual occurs.

(d) The senior agency official designated under paragraph (a) above shall account each year for the costs within the agency associated with the implementation of the National Industrial Security Program. These costs shall be reported to the Director of the Information Security Oversight Office, who shall include them in the reports to the President prescribed by this order.

(e) The Secretary of Defense, with the concurrence of the Administrator of General Services, the Administrator of the National Aeronautics and Space Administration, and such other agency heads or officials who may be responsible, shall amend the Federal Acquisition Regulation to be consistent with the implementation of the National Industrial Security Program.

(f) All contracts, licenses, or grants that involve access to classified information and that are advertised or proposed following the issuance of agency regulations, rules, or guidelines described in paragraph (b) above shall comply with the National Industrial Security Program. To the extent that is feasible, economical, and permitted by law, agencies shall amend, modify, or convert preexisting contracts, licenses, or grants, or previously advertised or proposed contracts, licenses, or grants, that involve access to classified information for operation under the National Industrial Security Program. Any direct inspection or monitoring of contractors, licensees, or grantees specified by this order shall be carried out pursuant to the terms of a contract, license, grant, or regulation.

(g) Executive Order No. 10865 of February 20, 1960 [set out above], as amended by Executive Order No. 10909 of January 17, 1961, and Executive Order No. 11382 of November 27, 1967, is hereby amended as follows:

(1) Section 1(a) and (b) are revoked as of the effective date of this order.

(2) Section 1(c) is renumbered as Section 1 and is amended to read as follows:

“SECTION 1. When used in this order, the term ‘head of a department’ means the Secretary of State, the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, the Nuclear Regulatory Commission, the Administrator of the National Aeronautics and Space Administration, and, in section 4, the Attorney General. The term ‘head of a department’ also means the head of any department or agency, including but not limited to those referenced above with whom the Department of Defense makes an agreement to extend regulations prescribed by the Secretary of Defense concerning authorizations for access to classified information pursuant to Executive Order No. 12829.”

(3) Section 2 is amended by inserting the words “pursuant to Executive Order No. 12829” after the word “information.”

(4) Section 3 is amended by inserting the words “pursuant to Executive Order No. 12829” between the words “revoked” and “by” in the second clause of that section.

(5) Section 6 is amended by striking out the words “The Secretary of State, the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, or his representative, or the head of any other department or agency of the United States with which the Department of Defense makes an agreement under section 1(b),” at the beginning of the first sentence, and inserting in their place “The head of a department of the United States . . . .”

(6) Section 8 is amended by striking out paragraphs (1) through (7) and inserting in their place “. . . the deputy of that department, or the principal assistant to the head of that department, as the case may be.”

(h) All delegations, rules, regulations, orders, directives, agreements, contracts, licenses, and grants issued under preexisting authorities, including section 1(a) and (b) of Executive Order No. 10865 of February 20, 1960, as amended, by Executive Order No. 10909 of January 17, 1961, and Executive Order No. 11382 of November 27, 1967, shall remain in full force and effect until amended, modified, or terminated pursuant to authority of this order.

(i) This order shall be effective immediately.

#### EX. ORD. NO. 12937. DECLASSIFICATION OF SELECTED RECORDS WITHIN NATIONAL ARCHIVES OF UNITED STATES

Ex. Ord. No. 12937, Nov. 10, 1994, 59 F.R. 59097, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. The records in the National Archives of the United States referenced in the list accompanying this order are hereby declassified.

SEC. 2. The Archivist of the United States shall take such actions as are necessary to make such records

available for public research no later than 30 days from the date of this Order, except to the extent that the head of an affected agency and the Archivist have determined that specific information within such records must be protected from disclosure pursuant to an authorized exemption to the Freedom of Information Act, 5 U.S.C. 552, other than the exemption that pertains to national security information.

SEC. 3. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

Records in the following record groups (“RG”) in the National Archives of the United States shall be declassified. Page numbers are approximate. A complete list of the selected records is available from the Archivist of the United States.

#### I. All unreviewed World War II and earlier records, including:

A.	RG 18, Army Air Forces	1,722,400 pp.
B.	RG 65, Federal Bureau of Investigation	362,500 pp.
C.	RG 127, United States Marine Corps	195,000 pp.
D.	RG 216, Office of Censorship	112,500 pp.
E.	RG 226, Office of Strategic Services	415,000 pp.
F.	RG 60, United States Occupation Headquarters	4,422,500 pp.
G.	RG 331, Allied Operational and Occupation Headquarters, World War II (including 350 reels of Allied Force Headquarters)	3,097,500 pp.
H.	RG 332, United States Theaters of War, World War II	1,182,500 pp.
I.	RG 338, Mediterranean Theater of Operations and European Command	9,500,000 pp.
	Subtotal for World War II and earlier	21.0 million pp.

#### II. Post-1945 Collections (Military and Civil)

A.	RG 19, Bureau of Ships, Pre-1950 General Correspondence (selected records)	1,732,500 pp.
B.	RG 51, Bureau of the Budget, 52.12 Budget Preparation Branch, 1952-69	142,500 pp.
C.	RG 72, Bureau of Aeronautics (Navy) (selected records)	5,655,000 pp.
D.	RG 166, Foreign Agricultural Service, Narrative Reports, 1955-61	1,272,500 pp.
E.	RG 313, Naval Operating Forces (selected records)	407,500 pp.
F.	RG 319, Office of the Chief of Military History Manuscripts and Background Papers (selected records)	933,000 pp.
G.	RG 337, Headquarters, Army Ground Forces (selected records)	1,269,700 pp.
H.	RG 341, Headquarters, United States Air Force (selected records)	4,870,000 pp.
I.	RG 389, Office of the Provost Marshal General (selected records)	448,000 pp.
J.	RG 391, United States Army Regular Army Mobil Units	240,000 pp.
K.	RG 428, General Records of the Department of the Navy (selected records)	31,250 pp.
L.	RG 472, Army Vietnam Collection (selected records)	5,864,000 pp.

Subtotal for Other	22.9 million
	pp.
TOTAL	43.9 million
	pp.

#### § 436. Requests by authorized investigative agencies

##### (a) Generally

(1) Any authorized investigative agency may request from any financial agency, financial institution, or holding company, or from any consumer reporting agency, such financial records, other financial information, and consumer reports as may be necessary in order to conduct any authorized law enforcement investigation, counterintelligence inquiry, or security determination. Any authorized investigative agency may also request records maintained by any commercial entity within the United States pertaining to travel by an employee in the executive branch of Government outside the United States.

(2) Requests may be made under this section where—

(A) the records sought pertain to a person who is or was an employee in the executive branch of Government required by the President in an Executive order or regulation, as a condition of access to classified information, to provide consent, during a background investigation and for such time as access to the information is maintained, and for a period of not more than three years thereafter, permitting access to financial records, other financial information, consumer reports, and travel records; and

(B)(i) there are reasonable grounds to believe, based on credible information, that the person is, or may be, disclosing classified information in an unauthorized manner to a foreign power or agent of a foreign power;

(ii) information the employing agency deems credible indicates the person has incurred excessive indebtedness or has acquired a level of affluence which cannot be explained by other information known to the agency; or

(iii) circumstances indicate the person had the capability and opportunity to disclose classified information which is known to have been lost or compromised to a foreign power or an agent of a foreign power.

(3) Each such request—

(A) shall be accompanied by a written certification signed by the department or agency head or deputy department or agency head concerned, or by a senior official designated for this purpose by the department or agency head concerned (whose rank shall be no lower than Assistant Secretary or Assistant Director), and shall certify that—

(i) the person concerned is or was an employee within the meaning of paragraph (2)(A);

(ii) the request is being made pursuant to an authorized inquiry or investigation and is authorized under this section; and

(iii) the records or information to be reviewed are records or information which the employee has previously agreed to make available to the authorized investigative agency for review;

(B) shall contain a copy of the agreement referred to in subparagraph (A)(iii);

(C) shall identify specifically or by category the records or information to be reviewed; and

(D) shall inform the recipient of the request of the prohibition described in subsection (b) of this section.

##### (b) Disclosure of requests

Notwithstanding any other provision of law, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person, other than those officers, employees, or agents of such entity necessary to satisfy a request made under this section, that such entity has received or satisfied a request made by an authorized investigative agency under this section.

##### (c) Records or information; inspection or copying

(1) Notwithstanding any other provision of law (other than section 6103 of title 26), an entity receiving a request for records or information under subsection (a) of this section shall, if the request satisfies the requirements of this section, make available such records or information within 30 days for inspection or copying, as may be appropriate, by the agency requesting such records or information.

(2) Any entity (including any officer, employee, or agent thereof) that discloses records or information for inspection or copying pursuant to this section in good faith reliance upon the certifications made by an agency pursuant to this section shall not be liable for any such disclosure to any person under this subchapter, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

##### (d) Reimbursement of costs

Any agency requesting records or information under this section may, subject to the availability of appropriations, reimburse a private entity for any cost reasonably incurred by such entity in responding to such request, including the cost of identifying, reproducing, or transporting records or other data.

##### (e) Dissemination of records or information received

An agency receiving records or information pursuant to a request under this section may disseminate the records or information obtained pursuant to such request outside the agency only—

(1) to the agency employing the employee who is the subject of the records or information;

(2) to the Department of Justice for law enforcement or counterintelligence purposes; or

(3) with respect to dissemination to an agency of the United States, if such information is clearly relevant to the authorized responsibilities of such agency.

##### (f) Construction of section

Nothing in this section may be construed to affect the authority of an investigative agency to obtain information pursuant to the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).



(July 26, 1947, ch. 343, title VIII, §802, as added Oct. 14, 1994, Pub. L. 103-359, title VIII, §802(a), 108 Stat. 3436.)

#### REFERENCES IN TEXT

The Right to Financial Privacy Act, referred to in subsec. (f), probably means the Right to Financial Privacy Act of 1978, which is title XI of Pub. L. 95-630, Nov. 10, 1978, 92 Stat. 3697, as amended, and is classified generally to chapter 35 (§3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

The Fair Credit Reporting Act, referred to in subsec. (f), is title VI of Pub. L. 90-321, as added by Pub. L. 91-508, title VI, §601, Oct. 26, 1970, 84 Stat. 1127, as amended, which is classified generally to subchapter III (§1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1601 of Title 15 and Tables.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 435 of this title.

### § 437. Exceptions

Except as otherwise specifically provided, the provisions of this subchapter shall not apply to the President and Vice President, Members of the Congress, Justices of the Supreme Court, and Federal judges appointed by the President.

(July 26, 1947, ch. 343, title VIII, §803, as added Oct. 14, 1994, Pub. L. 103-359, title VIII, §802(a), 108 Stat. 3437.)

### § 438. Definitions

For purposes of this subchapter—

(1) the term “authorized investigative agency” means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information;

(2) the term “classified information” means any information that has been determined pursuant to Executive Order No. 12356 of April 2, 1982, or successor orders, or the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], to require protection against unauthorized disclosure and that is so designated;

(3) the term “consumer reporting agency” has the meaning given such term in section 1681a of title 15;

(4) the term “employee” includes any person who receives a salary or compensation of any kind from the United States Government, is a contractor of the United States Government or an employee thereof, is an unpaid consultant of the United States Government, or otherwise acts for or on behalf of the United States Government, except as otherwise determined by the President;

(5) the terms “financial agency” and “financial institution” have the meanings given to such terms in section 5312(a) of title 31 and the term “holding company” has the meaning given to such term in section 3401(6) of title 12;

(6) the terms “foreign power” and “agent of a foreign power” have the same meanings as

set forth in sections<sup>1</sup> 1801(a) and (b), respectively, of this title; and

(7) the term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, and any other possession of the United States.

(July 26, 1947, ch. 343, title VIII, §804, as added Oct. 14, 1994, Pub. L. 103-359, title VIII, §802(a), 108 Stat. 3438.)

#### REFERENCES IN TEXT

Executive Order No. 12356, referred to in par. (2), is set out as a note under section 435 of this title.

The Atomic Energy Act of 1954, referred to in par. (2), is act Aug. 30, 1954, ch. 1073, 68 Stat. 921, as amended, which is classified generally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

## CHAPTER 16—DEFENSE INDUSTRIAL RESERVES

Sec.

451 to 454. Transferred or Repealed.

455. Authorization of appropriations.

456 to 462. Omitted.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 40 sections 474, 490.

### §§ 451 to 453. Transferred

#### CODIFICATION

Sections 451, 452, and 453 of this title were transferred to section 2535 of Title 10, Armed Forces, and redesignated as subsecs. (a), (c), and (b), respectively, of section 2535 by Pub. L. 102-484, div. D, title XLII, §4235(a)(2), (3), (b), Oct. 23, 1992, 106 Stat. 2690, 2691.

Section 451, acts July 2, 1948, ch. 811, §2, 62 Stat. 1225; Nov. 16, 1973, Pub. L. 93-155, title VIII, §809, 87 Stat. 617, related to Congressional declaration of purpose and policy in enacting this chapter.

Section 452, acts July 2, 1948, ch. 811, §3, 62 Stat. 1225; Nov. 16, 1973, Pub. L. 93-155, title VIII, §809, 87 Stat. 617, defined “Secretary”, “Defense Industrial Reserve”, and “plant equipment package” for purposes of this chapter.

Section 453, acts July 2, 1948, ch. 811, §4, 62 Stat. 1226; Nov. 16, 1973, Pub. L. 93-155, title VIII, §809, 87 Stat. 617; Nov. 14, 1986, Pub. L. 99-661, div. A, title XIII, §1359(a), 100 Stat. 3999, related to powers and duties of Secretary of Defense, reimbursement for transferred Defense Industrial Reserve equipment, and regulations.

#### SHORT TITLE

Section 1 of act July 2, 1948, as amended by Pub. L. 93-155, §809, provided: “That this Act [enacting this chapter] may be cited as the ‘Defense Industrial Reserve Act’.”

### § 454. Repealed. Pub. L. 101-510, div. A, title XIII, § 1303(a), Nov. 5, 1990, 104 Stat. 1669

Section, acts July 2, 1948, ch. 811, §5, 62 Stat. 1226; Nov. 16, 1973, Pub. L. 93-155, title VIII, §809, 87 Stat. 618, related to reports concerning status of defense industrial reserve.

<sup>1</sup> So in original. Probably should be “section”.